



TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1329 Fax: (207) 439-6806

October 12, 2016

Council Chambers

Kittery Town Council
Regular Meeting
7:00 p.m.

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. Agenda Amendment and Adoption
6. Town Manager's Report
7. Acceptance of Previous Minutes – 9/19/16, 9/22/16, 10/3/16 Special Meetings and 9/26/16 Regular Meeting
8. Interviews for the Board of Appeals and Planning
9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.
10. PUBLIC HEARINGS
11. DISCUSSION
 - a. Discussion by members of the public (three minutes per person)
 - b. Response to public comment directed to a particular Councilor
 - c. Chairperson's response to public comments
12. UNFINISHED BUSINESS
13. NEW BUSINESS
 - a. Donations/gifts received for Council disposition
 - b. (100216-1) The Kittery Town Council moves to approve the disbursement warrants.
 - c. (100216-2) The Kittery Town Council moves to authorize the 2017 Project Graduation Committee to hold a toll booth at the Resource Recovery Facility on October 15, 2016, from 9:00 a.m. to 5:00 p.m. for a fund raiser for Project Graduation.
 - d. (100216-3) The Kittery Town Council moves to approve a renewal application from Divine Cuisines LLC, 20 Walker Street, Kittery for a Malt, Spirituous and Vinous Liquor License for Tulsi Indian Restaurant, 20 Walker Street.

e. (100216-4) The Kittery Town Council moves to approve a renewal application from Black Birch, Inc., 2 Government Street, Kittery for a Malt, Spirituous and Vinous Liquor License for The Black Birch, 2 Government Street.

f. (100216-5) The Kittery Town Council moves to approve a renewal application from Rolling In The Mud, 460 US Route 1, Kittery for a Malt, Spirituous and Vinous Liquor License for When Pigs Fly Pizzeria, 460 US Route 1.

g. (100216-6) The Kittery Town Council moves to approve a renewal application from Clifford Elements LLC, 99 B High Street, Sanford, ME, for a Malt and Vinous Liquor License for Bills Original Kitchen, 1 Government Street.

h. (100216-7) The Kittery Town Council moves to establish the Holiday Parade as a town event, sponsored by the Kiwanis Club of the Seacoast, to be held on Saturday, December 3, 2016 at 3:00 p.m.

i. (100216-8) The Kittery Town Council moves to schedule a date for Sewer Assessment Hearings.

j. (100216-9) The Kittery Town Council, pursuant to 30-A, M.R.S. §3443 and Town Code §13.2.1, Arbitration Appeal of Assessment, moves to nominate six persons who are residents of the municipality to serve as independent arbitration panel members for the 2015 Sewer Assessment obligation, as follows: William Peirce, Marissa Day, Craig Wilson, Jeff Brake, Vern Gardner, and Shawn Harris.

k. (100216-10) The Kittery Town Council moves to schedule a date for a public hearing on proposed amendments to Title 10 of the Kittery Town Code.

14. COUNCILOR ISSUES OR COMMENTS

15. COMMITTEE AND OTHER REPORTS

- a. Communications from the Chairperson
- b. Committee Reports

16. EXECUTIVE SESSION

17. ADJOURNMENT

Posted: October 6, 2016



TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

cgranfield@kitteryme.org

Carol M. Granfield

Interim Town Manager

Town Manager's Report to the Town Council

October 5, 2016

1. **Sewer Betterment Assessments** – As of now I have processed four income deferrals and 14 septic deferrals and have several more appointments scheduled in the coming week. Additionally the we have set of many payment plans for individuals as well as received several full payments for the assessments. Individuals seeking connection deferrals for other reasons cannot request those until mid November.
2. **Finance Director** – Our Finance Director, Cindy Saklad's last day with the Town is October 13, and she will be working her last week with an Interim Finance Director, Maura Halkiotis. The Interim will be working 2 – 3 days per week. Meanwhile, the new Town Manager will have interviews scheduled with several Finance Director candidates the end of October.
3. **Capital Improvement Plan (CIP)** – We are beginning to move forth with preparation for the CIP with departments beginning to work on requests. Meetings will begin this fall.
4. **Employee Recognition Programs:**

Employee Years of Service Awards:

Zachary Harmon-Zach is one of our patrol officers and began working for the Town of Kittery on September 25, 2006! Congratulations on 10 years of service with the Town!

Employee of the Quarter Awards:

The first quarter of our new program ended on September 30th. We received several nominations of winners per department, and the Employee Recognition Committee reviewed each on, collaborated and determined the winners for this quarter. We are happy to announce the following:

The following recipients will receive the following:

- ½ day paid time off to take within 1 year of receipt
- Recognition in the Employee Newsletter
- Recognition here at Town Council and a Certificate with a copy in their personnel file

Town Hall- Kathleen Rich- "Kathleen displays dedication and determination every day with her position and is always willing to answer questions and help with problem solving. She is always cheerful and kind"

Kittery Community Center- Jessica Labbe- "Jess is hardworking, supportive, efficient, organized, responsible and flexible- always with a smile"

Department of Public Works- Jimmy Nightingale- "Jimmy goes above and beyond his normal assigned duties, when asked and without hesitation. He also volunteers to represent the DPW in many outside functions. He always has a smile on his face"

Wastewater Treatment Plant- Matthew Connolly- "Matt strives daily to overcome problems and is a very good knowledgeable person to work with"

Respectfully Submitted,

Carol

Carol M. Granfield

1. CALL TO ORDER

Chairperson Beers called the meeting to order at 6:00 p.m.

2. INTRODUCTORY

Chairperson Beers read the introductory.

3. PLEDGE OF ALLEGIANCE

Chairperson Beers led those present in the Pledge of Allegiance.

4. ROLL CALL

Answering the roll call were Chairperson Gary Beers, Vice Chairperson Charles Denault, Councilors Frank Dennett, Russell White, Kenneth Lemont, Judith Spiller, and Jeffrey Thomson.

5. NEW BUSINESS

Chairperson Beers explained the adjusted procedures of the meeting by the suspension of Council rules in order to conduct a quasi-judicial proceeding. The procedures are similar to that of the Board of Appeals and Planning Board where an applicant can come forward to discuss and deliberate for Council vote of that motion. A second motion is made to find the conclusions of law and findings of fact as presented.

A MOTION WAS MADE BY COUNCILOR SPILLER PURSUANT TO COUNCIL RULES SECTION 10 TO SUSPEND THE ROBERT'S RULES OF ORDER GOVERNING CONDUCT OF MEETINGS IN ORDER TO MODIFY THE ORDER OF CONDUCT HEARINGS IN DUE FORM OF QUASI-JUDICIAL PROCEEDINGS, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

Chairperson Beers explained the procedures of the hearings as follows:

The assessment hearings would be held for the following applicants in order of time of receipt of request:

- Kimberly Sanborn to request Map 30 Lot 12a,
- Sharon A. Clark to request Map 30 Lot 39,
- William J. Cullen to request Map 13 Lot 04,
- Ronald D. Provencal to request Map 29 Lot 37a,
- Jacquelyn Nooney to request Map 29 Lot 31,
- Susan C. Holt to request Map 29 Lot 20,
- Vincent E. King to request Map 29 Lot 04,
- Deborah J. Rose to request Map 11 Lot 11,
- Wallace W. Gerry to request Map 20 Lot 13,
- Megan D. F. Greenwood to request Map 30 Lot 25,
- Mr. David Gerasin Gerasin Family Realty, Llc, to request Map 21 Lot 18.

The sewer assessment hearings are being conducted pursuant to town code title 13, §1.4.3.5 upon the subject matter of the assessments in the order of time of receipt of said hearing request. Each requestor will be invited to the table in turn and asked to provide a brief overview of the request, then Council invited to ask any questions they may have. Upon completion of discussion, a review of potential findings as expected by law as a basis for decision by Council and Council may affirm, revise, increase, or diminish the Assessment. Next order of business is to establish a conclusion of law as a basis for the deliberations and prior determinations.

A MOTION WAS MADE BY COUNCILOR DENNETT TO FIND PURSUANT TO TOWN CODE TITLE 13, §1.4.3, ASSESSMENT AND 30-A M.R.S. §3442, EXPENSE OF CONSTRUCTION, THAT IT DOES HAVE JURISDICTION TO HEAR THESE MATTERS AND THE STANDARD OF REVIEW IS DETERMINED TO BE SUBSTANTIAL EVIDENCE. SUBSTANTIAL EVIDENCE MEANING SUCH RELEVANT EVIDENCE AS A REASONABLE MIND MIGHT ACCEPT AS ADEQUATE TO SUPPORT A CONCLUSION, AND THAT THE 2015 SEWER MAIN EXPANSION ASSESSMENT PLAN ADOPTED ON AUGUST 15, 2016 WAS ADOPTED PURSUANT TO AND COMPLIANT WITH TOWN CODE TITLE 13, §1.4.2.2 AND THE SUM ASSESSED DID NOT EXCEED THE BENEFIT OF MUNICIPAL OFFICERS, DEEMED FAIR AND EQUITABLE TO DEFRAYING THE EXPENSE OF SAID SEWER CONSTRUCTION, AND DID NOT EXCEED ONE HALF THE COST OF THE ENTIRE CONTRACT PROJECT PRICE, AND UTILIZED THE FORMULA FOR DETERMINING THE FAIR AND EQUITABLE COST OF OWNER OR OWNERS OF LAND SO BENEFITED, AND AFFIRMS THAT THE EXCLUSION OF SHAPLEIGH SCHOOL PROPERTIES IS VALID, AND AREA OF WETLANDS ARE NOT TO BE EXCLUDED, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0, WITH COUNCILOR WHITE OPPOSED.

a. (090316-1) The Kittery Town Council moves to hold Assessment Hearings for the following applicants:

- Kimberly Sanborn

Name of the requester: **KIMBERLY SANBORN**

Map-Lot: **30-12A** Street: **44 MANSON ROAD**

Basic description of the issue on request:

Pursuant to Town Code Title 13 §1.1.1C, Page 6, C. **“When gravity flow cannot be obtained from the building or the property, connection to said public sewer is not required.” Requesting exemption from connection mandate.**

Ms. Sanborn highlighted two main issues for her hearing request: 1) the footage from the road to the house is over 500 feet, 2) a pump would be required due to gravity flow from the house to the road. The relief requested was exemption.

Chairperson Beers read the council’s basis in law and findings of fact for the hearing request into the record.

Councilor Dennett asked for clarification regarding the applicant’s reference to more than 500 feet. Chairperson Beers explained the ordinance is more than 100 feet and Ms. Sanborn’s record demonstrates that it is more than 500 feet away. Councilor Dennett referenced Section 13.1.1.11 to explain that it does not refer to the location of the structure on the property, but rather the sewer line must be within 100 feet of the property along a public way. He stated his interpretation of that verbiage.

Chairperson Beers stated his interpretation that structures located within 100 feet of the property line must connect. Any structure beyond 100 feet would not be required. Councilor Dennett disagreed and emphasized that the sewer line located within 100 feet of property line as measured *along* the public way, not *from* the public way.

Vice Chairperson Denault understood the intent is directed towards owners of all structures and that is the beginning of the statement.

Councilor White thought that if the verbiage were to be clarified it is either in favor of the property owner or the Town, he would favor in the property’s owner benefit.

85 Councilor Thomson requested clarification from the Superintendent, George Kathios. Mr. Kathios
86 explained that after discussion with engineers from past projects, it is the property abutting the roadway
87 and he could not determine anything contrary of that.

88 Ms. Sanborn responded to Councilor Thomson's question that her current system is 37 years old and in
89 good condition. She explained what would be required to install the sewer line given the contours of her
90 property. She answered to Councilor Thomson's next question that her system is on an annual pump
91 schedule and there is one person living in the home.

92 Councilor Thomson recalled a personal experience from several years ago that made him believe anything
93 beyond 100 feet of the property line could be exempt from connection mandate.

94 Chairperson Beers echoed Councilor White's statement and asked that the section be revised for clarity in
95 the future.

96 Vice Chairperson Denault noted that it would require a pump system. Councilor Thomson reminded that
97 Vice Chairperson Denault's consideration is not part of the deliberations for the proceeding.

98 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO HEREBY RESOLVE, PURSUANT**
99 **TO TOWN CODE TITLE 13, §1.4.3.5, TO REVISE THE ASSESSMENT MADE IN THE 2015**
100 **SEWER MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON**
101 **MAP 30 LOT 12A AT 44 MANSON ROAD, OWNED BY KIMBERLY SANBORN, PURSUANT**
102 **TO TOWN CODE TITLE 13, §1.1.11A, EXEMPTION FROM CONNECTION REQUIREMENT**
103 **IS GRANTED DUE TO STRUCTURE REQUIRING SEWAGE DISPOSAL LOCATED**
104 **GREATER THAN 100' FROM SEWER MAIN, SECONDED BY COUNCILOR SPILLER. THE**
105 **MOTION PASSED BY A ROLL CALL VOTE 6/1/0, WITH COUNCILOR DENNETT**
106 **OPPOSED.**

107 **A MOTION WAS MADE BY COUNCILOR WHITE TO APPROVE THE CONCLUSIONS OF**
108 **LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT**
109 **MAP 30 LOT 12A AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED**
110 **BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0,**
111 **WITH COUNCILOR DENNETT OPPOSED.**

112 **COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:**

113 The application [is] complete; made a part of the record; and, the applicant [does] have standing.
114 The applicant's Burden of Proof [was] clarified to the Council. **Substantial evidence of claim.**
115 Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to
116 support a conclusion.

117 Assessment dimensions of the property and other arithmetical calculations used for calculating the
118 assessment are not applicable for this request.

119 Assessment formula for this assessment is not applicable for this request.

120 There [are] mitigating factors related to this request not considered in the plan.

121 **Title 13, §1.1.11 Installation and Connection to Public Sewer Required.**

122 **A. Owners of all structures with use requiring the disposal of sewage with public sewer located**
123 **within one hundred (100) feet of the property line** as measured along any public way are required
124 at their expense to install suitable waste effluent and/or toilet facilities therein, and to connect such
125 facilities directly to the public sewer in accordance with the provisions of this chapter, within ninety
126 (90) days after date of official notice to do so.

127 **C. When gravity flow cannot be obtained from the building or the property, connection to said**
128 **public sewer is not required.** However, this does not preclude waste flows from being pumped to
129 the public sewer should the property owner so wish. Properties not required to connect at the time of

130 a main extension project for this reason must do so when the existing septic/leach field system fails or
131 must otherwise be replaced.

132 Key elements of the issue and applicable ordinance(s)/statute(s):

133 **Town Code Title 13, §1.1.11C; or §1.1.11A**

134 The relief sought as noted in the request filing asked the Council to find:

135 **Exemption from connect requirement due to lack of gravity flow and greater than 500' distance**
136 **from structure to sewer main.**

137 In order to grant the request, the applicant needed to demonstrate that:

138 **Gravity flow cannot be achieved; or, distance exceeds requirement.**

139 Evidence submitted by the requester beyond what is shown on a plan: **None.**

140 Evidence submitted by people other than the requester either for or against the issue: **None.**

141 Evidence which Council enters into the record based on the personal knowledge of its members or
142 experts which Council has retained on its own behalf: **None.**

143 The applicant's evidence presented for the matter: [**was**] substantial;

144 [**was**] credible;

145 [**is not**] outweighed by conflicting evidence from the Town; and, the applicant

146 [**did**] meet the burden of proof for granting the request.

147 The sum of the information/circumstances presented and reviewed [**does**] warrant a revision of the
148 Assessment.

149 What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

150 **Structure greater than 100' distant from the sewer main.**

151

152 • Sharon A. Clark (2 applications)

153 Name of the requester: **SHARON A. CLARK**

154 Map-Lot: **30-39** Street: **63-65 MANSON ROAD**

155 Basic description of the issue on request:

156 **Assessed for two dwelling units (1,040sf home & 396sf Accessory Dwelling Unit). ADU size does not**
157 **reach the level of dwelling unit definition. Requesting revision to one unit.**

158 Ms. Clark requested a revision to be assessed at one half a unit versus one unit since the requirement is
159 600 s.f. and the apartment is assessed at 396 s.f.

160 Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the
161 record.

162 Councilor Dennett asked what existing use of the unit is. Ms. Clark explained that it is located over a
163 garage and occupied by her daughter. Councilor Dennett stated that it is then considered an intra-family
164 unit because an ADU must be minimum size 400 s.f. Chairperson Beers concluded it could not be
165 classified as an ADU because it is less than 650 s.f.

166 Chairperson Beers responded in the affirmative to Councilor Thomson's question that the size of the unit
167 is grandfathered. Councilor Thomson understood that a grandfathered unit should meet the same
168 standards of assessment as a unit that meets Town Code.

169 Councilor White explained his understanding that the ADU ordinance was intended to allow for greater
170 density to create affordable housing for a variety of purposes. The function of the unit has the same
171 burden on a system as would an accessory dwelling unit with more square footage. He would include it if
172 it was considered on a legal basis.

173 Chairperson Beers clarified to Vice Chairperson Denault that the use of the dwelling unit is arbitrary and
174 it is based solely on square footage.

175 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO FIND THE ACCESSORY**
176 **DWELLING UNIT ON MAP 30 LOT 39 AT 63-65 MANSON ROAD, OWNED BY SHARON A.**
177 **CLARK, TO BE LESS THAN 650 SQUARE FEET PURSUANT TO TOWN CODE TITLE 16,**
178 **§2.2 AND §8.25.4.2, AND HEREBY RESOLVES, PURSUANT TO TOWN CODE TITLE 13,**
179 **§1.4.3.5, TO [REVISE] THE ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION**
180 **ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, AND GRANTS A REDUCTION OF**
181 **NUMBER OF UNITS ASSESSED TO ONE AND RECALCULATION OF THE ASSESSMENT**
182 **AMOUNT, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A ROLL**
183 **CALL VOTE 5/2/0, WITH COUNCILOR DENNETT AND COUNCILOR THOMSON**
184 **OPPOSED.**

185 Councilor Thomson asked if there is a need for revision of the Council's basis in law. Chairperson Beers
186 stated that the issues of the grandfathering will be recorded into the record, but not a finding of Council's
187 basis in law.

188 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF**
189 **LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT**
190 **MAP 30 LOT 39 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY**
191 **VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A ROLL CALL VOTE 5/2/0,**
192 **WITH COUNCILOR DENNETT AND COUNCILOR THOMSON OPPOSED.**

193 **COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:**

194 The application [is] complete; made a part of the record; and, the applicant [does] have standing.

195 The applicant's Burden of Proof [was] clarified to the Council. **Substantial evidence of claim.**
196 Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to
197 support a conclusion.

198 Assessment dimensions of the property and other arithmetical calculations used for calculating the
199 assessment [are] correct.

200 Assessment formula for this assessment [is] the same as all other in the adopted assessment plan.

201 There [are] mitigating factors related to this request not considered in the plan.

202 **Title 16, §2.2 Definitions**

203 **Dwelling unit** means a room or group of rooms forming a habitable unit for one family with facilities
204 used or intended to be used for living, sleeping, cooking, eating, and sanitary facilities. It comprises at
205 least **six hundred fifty (650) square feet** of habitable floor space, except for elderly housing, an
206 accessory dwelling unit, or a temporary, intra-family dwelling unit. The term does not include a
207 trailer."

208 **Title 16, Chapter 8, Article XXV. Accessory Dwelling Units**

209 **§8.25.4.2 Unit Standards.**

210 A. Unit Size. The habitable floor space of an accessory dwelling unit must be a minimum of four
211 hundred (400) square feet and no larger than eight hundred (800) square feet."

212 **2015 Sewer Main Extension Project Assessment Plan**

213 **A. PROJECT DETAILS:**

214

215 The basis of calculation for the assessment of each parcel is fifty percent (50%) for number of
216 occupancy units (\$711,000.00), **established on a per-dwelling-unit basis for residences** and on a
217 per-unit-of-occupancy basis for structures in nonresidential zones as found in the Town's property tax
218 records

219 Key elements of the issue and applicable ordinance(s)/statute(s):

220 **Town Code Title 16 §2.2 Definition of Dwelling Unit**

221 The relief sought as noted in the request filing asked the Council to find:
222 **Reduce assessment Unit count because parcel has only one classified dwelling unit**
223 In order to grant the request, the applicant needed to demonstrate that:
224 **Accessory dwelling unit space less than 650 square feet.**
225 Evidence submitted by the requester beyond what is shown on a plan: **None**
226 Evidence submitted by people other than the requester either for or against the issue: **None**
227 Evidence which Council enters into the record based on the personal knowledge of its members or
228 experts which Council has retained on its own behalf: **Town Code Title 16 §8.25.4.2, Unit Standards**
229 The applicant's evidence presented for the matter: [**was**] substantial;
230 [**was**] credible;
231 [**is not**] outweighed by conflicting evidence from the Town; and, the applicant
232 [**did**] meet the burden of proof for granting the request.
233 The sum of the information/circumstances presented and reviewed [**does**] warrant a revision of the
234 Assessment.
235 What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?
236 **Revise Assessment to one Unit based on Town Code Title 16 Definition of Dwelling Unit and**
237 **§8.25.4.2 Accessory Dwelling Unit Standard.**

238 Councilor Thomson questioned the Council's rationale for the previous action. The homeowner's
239 statement that the unit is grandfathered is acceptable, yet because it is smaller than Town Code square
240 footage requirements it shouldn't be considered as an accessory dwelling unit. He did not see how both
241 considerations could be made. Chairperson Beers cited the definition to emphasize that it comprises of
242 650 s.f. of habitable floor space, except for a temporary intrafamily dwelling unit. Therefore, it is not
243 classifiable as a dwelling unit. The adopted plan indicates that Assessments are made on the number of
244 dwelling units.

245

246 Name of the requester: **SHARON A. CLARK**
247 Map-Lot: **30-39** Street: **63-65 MANSON ROAD**
248 Basic description of the issue on request:
249 **8.5 acre lot is "undevelopable". Title 13 appeal for "unbuildable lot" denied by Planner/CEO.**
250 **Requesting reduction of area assessed to one acre (43,360sf). See attached aerial view; Kittery Tax**
251 **Map 30; and, Map 30 excerpt.**

252 Ms. Clark requested that the unit be assessed at 1 acre, which would comprise of the two dwellings. The
253 property is landlocked and isolated. There is no access into the lot and you cannot subdivide or build
254 further on the lot. It would require 150 feet of frontage to build or subdivide and there currently is 125
255 feet. It is surrounded by the interstate highway on either sides. The only potential access is through the
256 private way, Patten Road. After discussion with the Code Enforcement Officer and Town Planner, it was
257 determined that the lot could not be subdivided.

258 Chairperson Beers asked if it qualifies as a farm. Ms. Clark explained that it is not an income producing
259 farm.

260 Chairperson Beers explained to the applicant how the Town Code does not consider buildability issues on
261 any vacant lot. To demonstrate it is an isolated land may be considered by the Planning Board to Board of
262 Appeals. He stated that since the only contention made is on the basis of buildable lot, the Council can not
263 make the consideration for that determination.

264 Councilor Dennett stated he would proceed without prejudice to the applicant once further information
265 from the Planning Board and Board of Appeals is reasonably presented to the Council. Chairperson Beers
266 concurred.

267 Councilor Thomson asked how many new dwellings could be constructed on 8.5 acres per Town Code in
268 the event that the other property was sold and could provide access. Chairperson Beers estimated about
269 twenty-six. He reminded that the applicant has up to 18 years to effect payment. Should it take time for
270 the Planning Board and Board of Appeals to review the request, the amount of the assessment that
271 exceeded when it was finally authorized would be returned.

272 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO HEREBY CONTINUE THE**
273 **HEARING ON THIS MATTER OF MAP 30 LOT 39 AT 63-65 MANSON ROAD, OWNED BY**
274 **SHARON A. CLARK, WITHOUT PENALTY OR PREJUDICE, UNTIL SUCH TIME AS THE**
275 **BOARD OF APPEALS AND/OR PLANNING BOARD RULES ON THE ISSUE AS TO THE**
276 **PARCEL'S "BUILDABILITY / DEVELOPABILITY" PURSUANT TO TOWN CODE OR**
277 **OTHER APPLICABLE STATUTES AND RETURNED TO COUNCIL IN DUE COURSE FOR**
278 **CONCLUSION, WHICH APPEALS MAY BE FILED WITHOUT COST TO THE APPLICANT,**
279 **SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS ROLL**
280 **CALL VOTE 7/0/0.**

281 Chairperson Beers answered to Ms. Clark's concern that the Planning Board and Board of Appeals cannot
282 deny Ms. Clark's application and they are required to make a determination. Ms. Clark noted that when
283 she did attempt to file an appeal, she needed a letter from the Code Enforcement Officer and Town
284 Planner, which they both would not provide. Chairperson Beers asked Ms. Granfield to coordinate the
285 necessary administrative procedures.

286

- 287
 - William J. Cullen (2 applications)

288 Name of the requester: **WILLIAM J. CULLEN**

289 Map-Lot: **11-29** Street: **32 MARTIN ROAD**

290 Basic description of the issue on request:

291 **Property has a pond across the width of its boundaries owner by others. No access to building site.**
292 **Building site is 700' from sewer main. Pump-up required. Objections raised, but no injury stated,**
293 **nor relief requested [Clarified – seeking exemption from assessment]**

294 Mr. Cullen explained the reason for his request for exemption from the entire assessment is there exists no
295 access to the building site due to a pond that crosses the entire piece of property. The only area for
296 potential consideration is in front of the pond, which is unbuildable due to the setbacks.

297 Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the
298 record.

299 Councilor Dennett felt the applicant had reasonably proven that access from the primary parcel to Martin
300 Road is unable to be obtained because of the pond that is owned by Southern Maine Fish and Game
301 Association. He stated his favor in relieving the applicant from any assessment charges.

302 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN**
303 **CODE TITLE 13, §1.4.3.5, TO REVISE THE ASSESSMENT MADE IN THE 2015 SEWER**
304 **MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 11**
305 **LOT 29 AT 32 MARTIN ROAD OWNED BY WILLIAM & CATHY CULLEN TO EXEMPT**
306 **THE PROPERTY FROM ASSESSMENT, SECONDED BY COUNCILOR WHITE. THE**
307 **MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

308 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF**
309 **LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT**
310 **MAP 11 LOT 29 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY**

COUNCILOR WHITE. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [is] complete; made a part of the record; and, the applicant [does] have standing.

The applicant's Burden of Proof [was] clarified to the Council. **Substantial evidence of claim.**

Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment [are] correct.

Assessment formula for this assessment [is] the same as all other in the adopted assessment plan.

There [are] mitigating factors related to this request not considered in the plan.

13.1.1.11 Installation of Toilet Facilities and Connection to Public Sewer Required.

A. Owners of all structures with use requiring the disposal of sewage with public sewer located within one hundred (100) feet of the property line as measured along any public way are required at their expense to install suitable waste effluent and/or toilet facilities therein, and to connect such facilities directly to the public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so. Pursuant to Town Code Title 16, Chapter 8, Article VII, Sewage Disposal, connection to public sewer is required for a commercial or industrial development or a residential subdivision, where public sewer, within an abutting public way, is within one thousand (1,000) feet of the property line as measured along said public way.

C. When gravity flow cannot be obtained from the building or the property, connection to said public sewer is not required. However, this does not preclude waste flows from being pumped to the public sewer should the property owner so wish. Properties not required to connect at the time of a main extension project for this reason must do so when the existing septic/leach field system fails or must otherwise be replaced.

Key elements of the issue and applicable ordinance(s)/statute(s):

Town Code Title 13, §1.1.11C; or §1.1.11A

The relief sought as noted in the request filing asked the Council to find:

Exemption from connect requirement due to lack of gravity flow and greater than 100' distance from structure to sewer main. Basis for exemption from assessment.

In order to grant the request, the applicant needed to demonstrate that:

Gravity flow cannot be achieved; or, distance exceeds requirement.

Evidence submitted by the requester beyond what is shown on a plan: **None.**

Evidence submitted by people other than the requester either for or against the issue: **None.**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **None.**

The applicant's evidence presented for the matter: [was] substantial;

[was] credible;

[is] outweighed by conflicting evidence from the Town; and, the applicant

[did] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [does not] warrant relief from the Assessment.

The sum of the information/circumstances presented and reviewed [may] warrant a revision of the Assessment calculations.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Structure greater than 100' distant from the sewer main.

357 Name of the requester: **WILLIAM J. CULLEN**

358 Map-Lot: **13-04** Street: **DENNETT ROAD**

359 Basic description of the issue on request:

360 **Frontage length assessed incorrect. Requesting relief to distance of 126lf, which is the Town-**
361 **installed pipe length. Additional line installation paid by owner.**

362 Mr. Cullen explained that the assessment measured the frontage at 511 feet and a certified survey
363 measured 401 feet. The contractor for the Town sewer line installed 118-120 feet of gravity flow. Where
364 the line left was at a spot that was 18-20 feet below the property in solid ledge. It was an opportune time
365 to hire Sargent Corporation to extend 4 feet below the ground and that section would be assessed with
366 gravity, as opposed to another pump station. He objects the assessment on the length of the line that they
367 paid to install and within the easement.

368 Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the
369 record.

370 Councilor Dennett appreciated the amount of detail that was provided by the applicant, but felt that he
371 could not make a decision based on the extreme level of technical complexity in that information.

372 Vice Chairperson Denault requested more information from Mr. Kathios. Mr. Kathios confirmed that the
373 126 feet is the correct length of sewer line that is on his property. He stated that the engineering designs
374 were changed during the project. He was not able to perform a thorough investigation of the situation
375 before the time of the hearing.

376 Councilor Thomson asked what the length of pipe that he paid to have installed was. Mr. Cullen replied
377 that it is 292 feet and he has a receipt for that payment.

378 Mr. Cullen confirmed to Vice Chairperson Denault's questions that the sewer line travels in his property
379 as well as the business park and allows for sewer to flow off the property. By extending it, there could be
380 another sewer line that connects to Dennett Road, which would not require another pump station. It will
381 open up the front end of the park to gravity.

382 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN**
383 **CODE TITLE 13, §1.4.3.5, TO REVISE THE ASSESSMENT MADE IN THE 2015 SEWER MAIN**
384 **EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 13 LOT 04**
385 **AT DENNETT ROAD OWNED BY WILLIAM & CATHY CULLEN, ADJUSTING THE**
386 **FRONTAGE DIMENSION TO BE 126 FEET AND THE ASSESSMENT TO BE**
387 **RECALCULATED, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A**
388 **ROLL CALL VOTE 6/1/0, WITH COUNCILOR DENNETT OPPOSED.**

389 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF**
390 **LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT**
391 **MAP 13 LOT 04 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY**
392 **COUNCILOR WHITE. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0, WITH**
393 **COUNCILOR DENNETT OPPOSED.**

394 **COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:**

395 The application [is] complete; made a part of the record; and, the applicant [does] have standing.

396 The applicant's Burden of Proof [was] clarified to the Council. **Substantial evidence of claim.**

397 Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to
398 support a conclusion.

399 Assessment dimensions of the property and other arithmetical calculations used for calculating the

assessment [**may not be**] correct.

Assessment formula for this assessment [**is**] the same as all other in the adopted assessment plan.

There [**are not**] mitigating factors related to this request not considered in the plan.

Key elements of the issue and applicable ordinance(s)/statute(s):

A. PROJECT DETAILS:

“Twenty-five percent (25%) each of the assessed parcel share of the cost (\$355,500.00) is **based on the linear footage of frontage along the extension main abutting each parcel** on a public way; and
.....”

The relief sought as noted in the request filing asked the Council to find:

Find actual frontage linear length to be 126’ as Town installed portion.

In order to grant the request, the applicant needed to demonstrate that:

Distinction between frontage along main – 401.19’ vs Town installed frontage – 126’.

Evidence submitted by the requester beyond what is shown on a plan: **None.**

Evidence submitted by people other than the requester either for or against the issue: **None.**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **None.**

The applicant’s evidence presented for the matter: [**was**] substantial;

[**was**] credible;

[**is**] outweighed by conflicting evidence from the Town; and, the applicant

[**did**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**may**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Revise frontage linear foot dimension to 126’ as confirmed by engineer drawings.

-
- Ronald Provencal

Name of the requester: **RONALD D. & PAULETTE Y. PROVENCAL**

Map-Lot: **29-37A** Street: **8 STEVENSON ROAD**

Basic description of the issue on request:

Claim that Assessment calculation for Area is incorrect, 10,000sf vs 10,019sf.

Mr. Provencal stated the footage area was incorrect on the first assessment. He provided a copy of the deed to the Town previously and it had still not been corrected.

Mr. Provencal also commented that when this process began, the road was raised about 1.5 inch and now every time it rains a river forms in his driveway and it hasn’t been mitigated. Chairperson Beers advised Mr. Provencal to inform Town Manager Granfield of the situation.

Chairperson Beers read the council’s basis in law and findings of fact for the hearing request into the record.

Mr. Provencal stated the specific footage area based on the deed in response to Councilor Dennett’s inquiry. Chairperson Beers asked that a copy of the deed be provided to Town Manager Granfield.

Councilor Thomson asked if the relief requested is to have the lot area square footage reflect 10,000 s.f. Mr. Provencal concurred.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN CODE TITLE 13, §1.4.3.5, TO [REVISE] THE ASSESSMENT MADE IN THE 2015 SEWER

MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 29 LOT 37A AT 8 STEVENSON ROAD, OWNED BY RONALD D. & PAULETTE Y. PROVENCAL, THAT THE LOT SIZE IS AFFIRMED AT 10,000SF AND THE ASSESSMENT CALCULATION IS TO BE SO REVISED, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT MAP 29 LOT 37A AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY COUNCILOR WHITE. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

The application [**is not**] complete; made a part of the record; and, the applicant [**does**] have standing. The applicant's Burden of Proof [**was**] clarified to the Council. **Substantial evidence of claim.** Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment Area dimension of the property [**is**] incorrect.

All other dimensions and arithmetical calculations used for calculating the assessment are not applicable for this request and assessment formula for this assessment is not applicable for this request.

There [**may be**] mitigating factors related to this request not considered in the plan.

A. PROJECT DETAILS:

Twenty-five percent (25%) each of the assessed parcel share of the cost (\$355,500.00) is based on the linear footage of frontage along the extension main abutting each parcel on a public way; and, for the total area of each parcel in square feet.

Key elements of the issue and applicable ordinance(s)/statute(s):

The relief sought as noted in the request filing asked the Council to find:

Apparently reduction in area for assessment calculation to 10,000sf.

In order to grant the request, the applicant needed to demonstrate that:

Lot size is as claimed at 10,000sf

Evidence submitted by the requester beyond what is shown on a plan: **None.**

Evidence submitted by people other than the requester either for or against the issue: **None.**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **Verbal – Comment from Assessor**

The applicant's evidence presented for the matter: [**was**] substantial;

[**was**] credible;

[**is**] outweighed by conflicting evidence from the Town; and, the applicant

[**did**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**does / does not**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Lot size different than assessed calculations used. Mr. Provencal read the property dimensions from the deed.

-
- Jacquelyn Nooney

Name of the requester: **JACQUELYN NOONEY (FLOWER COMPANY PROPERTIES, INC)**

Map-Lot: **29-31** Street: **6 MEADOW LANE**

Basic description of the issue on request:

489 Pursuant to Town Code Title 13, §1.4.3.6A, land is exempt from assessment when classified as
490 agriculture.

491 Ms. Nooney stated she recently filed the application to have the land classified as farm land since it meets
492 the qualifications for that classification. That rule is made on April 1st of every year, thus there will be a
493 delay.

494 Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the
495 record.

496 Councilor Thomson supported what Ms. Nooney requested and emphasized that the Assessment is
497 contingent upon the designation.

498 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO CONTINUE THE HEARING ON**
499 **THIS MATTER OF MAP 29 LOT 31 AT 6 MEADOW LANE, OWNED BY FLOWER**
500 **COMPANY PROPERTIES, INC, WITHOUT PENALTY OR PREJUDICE, UNTIL SUCH TIME**
501 **AS THE TOWN ASSESSOR RULES ON A CLASSIFICATION APPLICATION PURSUANT TO**
502 **TOWN CODE OR OTHER APPLICABLE STATUTES AND RETURNED TO COUNCIL IN**
503 **DUE COURSE FOR CONCLUSION, SECONDED BY COUNCILOR THOMSON.**

504 Vice Chairperson Denault asked if the assessor would provide additional information that warrants further
505 deliberation. Chairperson Beers clarified that it is not a deliberation, but rather a presentation of the
506 assessor's classification that indicates the property is exempt. Vice Chairperson Denault questioned the
507 current and future use of the land and whether or not there will be further deliberation on the Assessment.
508 Chairperson Beers replied that the State statute indicates if the property comes out of the classification,
509 then it is liable for all the applicable taxation.

510 Councilor Dennett questioned what would happen in the event that the Assessor determines eligibility of
511 the classification at less than 100% of the land. Chairperson Beers stated he was not aware of any
512 regulatory requirement that would relieve the property owner from paying the Assessment in due course.

513 Vice Chairperson Denault asked if there is a time limit for the Assessor to evaluate the classification.
514 Chairperson Beers explained that if it is not classified by the April date, then by default it would not be
515 exempt.

516 Ms. Nooney explained to Councilor Lemont that she intends to coordinate with the Kittery Land Trust to
517 place a conservation easement on the property in the future.

518 **THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

519 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF**
520 **LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT**
521 **MAP 29 LOT 31 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY**
522 **COUNCILOR THOMSON. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE**
523 **7/0/0.**

524 **COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:**

525 The application [is] complete; made a part of the record; and, the applicant [does] have standing.

526 The applicant's Burden of Proof [was] clarified to the Council. **Substantial evidence of claim.**
527 Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to
528 support a conclusion.

529 Assessment dimensions of the property and other arithmetical calculations used for calculating the
530 assessment are not applicable for this request.

Assessment formula for this assessment is not applicable for this request.

There [**may be**] mitigating factors related to this request not considered in the plan.

13.1.4.3.6 Farm and Open Space Land Exempt from Assessment.

A. Land, classified and restricted for use for agricultural, forest/woodland, open space or wildlife habitat purposes as defined by 36 M.R.S. §1102, is exempt from the assessment provided in §13.1.4.3 when no benefits are derived from the common sewer or drain. Owners of such qualified land must notify the municipal officers that their property may qualify for this exception. The municipal officers are to revise the assessments against such land to exempt it from assessment. Any revision of assessment provided by this paragraph is to be in writing and recorded by the clerk.

Title 36: TAXATION; Part 2: PROPERTY TAXES

Subchapter 10: FARM AND OPEN SPACE TAX LAW

§1102. Definitions

5-A. Horticultural land. "Horticultural land" means land which is engaged in the production of vegetables, tree fruits, small fruits, flowers and woody or herbaceous plants.

§1103. Owner's application

An owner of farmland or open space land may apply for taxation under this subchapter by filing with the assessor the schedule provided for in section 1109. The election to apply requires the written consent of all owners of an interest in that farmland or open space land.

Key elements of the issue and applicable ordinance(s)/statute(s):

Town Code Title 13, §1.4.3.6A

The relief sought as noted in the request filing asked the Council to find:

Exemption from assessment.

In order to grant the request, the applicant needed to demonstrate that:

The land in question has been formally classified as agriculture by the Town Assessor.

Evidence submitted by the requester beyond what is shown on a plan: **None.**

Evidence submitted by people other than the requester either for or against the issue: **None.**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **None.**

The applicant's evidence presented for the matter: [**was**] substantial;

was not] credible;

[**is**] outweighed by conflicting evidence from the Town; and, the applicant

[**did not**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**may**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Continued until such time as a receipt of Assessor classification may be affirmed.

- Susan Holt (applicant not present, see letter in packet)

Name of the requester: **SUSAN HOLT**

Map-Lot: **29-20** Street: **15 STEVENSON LANE**

Basic description of the issue on request:

Reduction in Unit charge from 2 to 1. Location of stub to main line is an issue for exemption to connect consideration. Requested hardship consideration.

Councilor White abstained from voting on the request since he represented Ms. Holt in the past.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

576 Councilor Dennett saw three elements for consideration: that financial hardship exists; the property
577 should be assessed at one unit, not two; and, the location of the stub to main line warrants exemption to
578 connect. Chairperson Beers did not understand financial hardship as part of the consideration. Councilor
579 Dennett felt it is difficult to make a decision on the reduction to one unit on the basis of the applicant's
580 intended use. Also, he could not support for relief on the basis of the stub location because it is still within
581 the linear property line.

582 Vice Chairperson Denault suggested to not remove the second unit from the Assessment based on
583 Councilor Dennett's statement. He asked why the existing location for the stub was chosen. Chairperson
584 Beers believed that it was located there for purposes of gravity flow.

585 Vice Chairperson Denault asked what the dimensions for the second unit are. The Council could not
586 recall the dimensions in the documentation provided in the request.

587 Councilor Lemont expressed his concerns with the applicant's testimony. He concluded that he only
588 supported the consideration for financial hardship and supported waiving the betterment fee. He thought
589 there are two units and did not want to make a determination on the level of hardship imposed by the
590 connection requirement.

591 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN**
592 **CODE TITLE 13, §1.4.3.5, TO AFFIRM THE ASSESSMENT MADE IN THE 2015 SEWER**
593 **MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 29**
594 **LOT 20 AT 15 STEVENSON ROAD , OWNED BY SUSAN HOLT, SECONDED BY**
595 **COUNCILOR DENNETT. THE MOTION PASSED BY A ROLL CALL VOTE 6/0/1 WITH**
596 **COUNCILOR WHITE ABSTAINING.**

597 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF**
598 **LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT**
599 **MAP 29 LOT 20 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY**
600 **VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A ROLL CALL VOTE 6/0/1**
601 **WITH COUNCILOR WHITE ABSTAINING.**

602 **COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:**

603 The application [is] complete; made a part of the record; and, the applicant [does] have standing.
604 The applicant's Burden of Proof [was] clarified to the Council. **Substantial evidence of claim.**
605 Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to
606 support a conclusion.

607 Assessment dimensions of the property and other arithmetical calculations used for calculating the
608 assessment [are] correct.

609 Assessment formula for this assessment [is] the same as all other in the adopted assessment plan.
610 There [are] mitigating factors related to this request not considered in the plan.

611 **Title 16, Chapter 8, Article XXV. Accessory Dwelling Units**

612 **§8.25.4.2 Unit Standards.**

613 A. Unit Size. The habitable floor space of an accessory dwelling unit must be a minimum of four
614 hundred (400) square feet and no larger than eight hundred (800) square feet."

615 **2015 Sewer Main Extension Project Assessment Plan**

616 **A. PROJECT DETAILS:**

617 The basis of calculation for the assessment of each parcel is fifty percent (50%) for number of
618 occupancy units (\$711,000.00), **established on a per-dwelling-unit basis for residences** and on a
619 per-unit-of-occupancy basis for structures in nonresidential zones as found in the Town's property tax
620 records.

621 **13.1.4.3.2 Definitions.**

For the purposes of this Article, the following definitions apply:

Benefited Parcel: A property which has gained direct access to a sewer main extension via **frontage or an existing public right-of-way less than one hundred (100) feet distant**, whether gravity flow is readily achievable or not.

Dwelling Unit: A room or group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking, eating, and sanitary facilities. It comprises at least six hundred fifty (650) square feet of habitable floor space and includes any subcategory definition of dwelling as found in Title 16, §2.2, (e.g. Inn, Accessory Dwelling Unit).

Per-Dwelling-Unit: The basis of calculation of the number of dwelling units for residences assessed in an adopted Sewer Main Extension Assessment Plan, or to be assessed for sewer special entrance connection fee.

Key elements of the issue and applicable ordinance(s)/statute(s):

Town Code Title 13, §1.4.3.2 and 16, §2.2 Definition of Dwelling Unit

The relief sought as noted in the request filing asked the Council to find:

Parcel has only one dwelling unit for assessment. Exemption from connection requirement.

In order to grant the request, the applicant needed to demonstrate that:

Accessory dwelling unit space less than 650 square feet.

Evidence submitted by the requester beyond what is shown on a plan: **None**

Evidence submitted by people other than the requester either for or against the issue: **None**

Evidence which Council enters into the record based on the personal knowledge of its members or experts which Council has retained on its own behalf: **Town Code Title 16 §8.25.4.2, Unit Standards;**

Aerial view, Tax Map excerpt; and, Assessment Map excerpt.

The applicant's evidence presented for the matter: [**was**] substantial;

[**was not**] credible;

[**is**] outweighed by conflicting evidence from the Town; and, the applicant

[**did not**] meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [**does**] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

Revise Assessment to one Unit based on Town Code Title 16 Definition of Dwelling Unit and §8.25.4.2 Accessory Dwelling Unit Standard.

Councilor Thomson expressed concern that Council's decision contradicted the basis for decision made previously.

-
- Vincent & Jessie King

Name of the requester: **VINCENT & JESSIE KING**

Map-Lot: **29-04** Street: **132 MARTIN ROAD**

Basic description of the issue on request:

Objection to exclusion of Shapleigh School from Assessment. Property wetlands not excluded from the assessment.

Mr. King explained that the abutting property coming from Rte. 236 is preventing the drainage from flowing off the land, thus, creating an unbuildable wetland. Also, the area is not accessible. He requested that the acreage not be considered in their betterment fee because that section is wetland.

Mr. King responded to Councilor Thomson's question that there has not been an exact measurement of the land excluding the wetland area.

Vice Chairperson Denault asked if the area has always resulted in a wetland. Mr. King affirmed that

668 statement and added that it has worsened because of the backfill from the boats and there exists no
669 culvert. He further explained that once that area filled, the level raised about at least 10-15 feet above the
670 original plane. All that runoff is now forced onto the property whereas before it would runoff towards the
671 business park.

672 Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the
673 record.

674 Councilor White explained his vote in the negative to the motion made in the August 15, 2016 special
675 meeting that areas of wetlands are not to be excluded because it conflicts with other policies in town. He
676 considered the applicant's request to be fair, but did not find any sufficient information regarding what
677 the exemption should be to make a decision.

678 Ms. King replied to Councilor Thomson's question regarding the lots by providing a history of ownership
679 transfers within their family and how the property lines were adjusted. Councilor Thomson asked whether
680 or not another dwelling could be added to the property if the property had no wetlands. Mr. King replied
681 that there exists no access.

682 Councilor Thomson asked if there was access available, how many dwellings could potentially be
683 proposed per the zoning. Chairperson Beers replied that only one dwelling would be allowable per the
684 zoning. He echoed Councilor White's statement that further information regarding the square footage of
685 wetlands is necessary to make a decision.

686 Councilor Dennett did not support considering wetlands for exemption. Chairperson Beers added that his
687 understanding from past practice is that no lands were excluded.

688 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN**
689 **CODE TITLE 13, §1.4.3.5, TO AFFIRM THE ASSESSMENT MADE IN THE 2015 SEWER**
690 **MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 29**
691 **LOT 04 AT 132 MARTIN ROAD OWNED BY VINCENT & JESSIE KING, SECONDED BY**
692 **COUNCILOR DENNETT.**

693 Councilor Thomson stated his opposition to the motion because he saw no issue in waiting for additional
694 information to make a decision.

695 Vice Chairperson Denault stated his opposition to the motion based on the knowledge of the area.

696 Councilor Lemont stated his opposition to the motion based on not having a clear understanding of the
697 size of the wetlands.

698 Councilor White felt that even if the information regarding the size of the wetlands was determined, the
699 plan itself excludes wetlands from exemption. Chairperson Beers concurred with that statement.

700 **THE MOTION PASSED BY A ROLL CALL VOTE 4/3/0 WITH VICE CHAIRPERSON**
701 **DENAULT, COUNCILOR LEMONT, COUNCILOR THOMSON OPPOSED.**

702 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF**
703 **LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT**
704 **MAP 29 LOT 04 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY**
705 **COUNCILOR DENNETT. THE MOTION PASSED BY A ROLL CALL VOTE 4/3/0 WITH VICE**
706 **CHAIRPERSON DENAULT, COUNCILOR LEMONT, COUNCILOR THOMSON OPPOSED.**

707 **COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:**

708 The application [is] complete; made a part of the record; and, the applicant [does] have standing.

The applicant's Burden of Proof [**was**] clarified to the Council. **Substantial evidence of claim.**
Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment [**are**] correct. **Consideration To Reduce Area Requested.**

Assessment formula for this assessment [**is**] the same as all other in the adopted assessment plan.

There [**are / are not**] mitigating factors related to this request not considered in the plan.

Key elements of the issue and applicable ordinance(s)/statute(s):

Title 30-A: MUNICIPALITIES AND COUNTIES

Chapter 161: SEWERS AND DRAINS

§3442. Expense of construction

2. Estimate and assessment of costs; notice. When any municipality or sewer district has constructed and completed a public drain or common sewer, the municipal officers or sewer district trustees shall determine what lots or parcels of land are benefited by the drain or sewer, and shall estimate and assess upon the lots and parcels of land and against the owner of the land or person in possession, or against whom the taxes on the land are assessed, whether the person to whom the assessment is so made is the owner, tenant, lessee or agent and whether the land is occupied or not, the sum not exceeding the benefit they consider just and equitable towards defraying the expenses of constructing and completing the drain or sewer, together with any sewage disposal units and appurtenances that are necessary and in operation after May 31, 1979.

13.1.4.3 Assessment.

13.1.4.3.1 Determination of Benefits.

When the sewer line construction has been completed, the municipal officers shall determine what lots or parcels of land, with or without structures thereon, are benefited by said sewer line; and, estimate and assess upon said lots or parcels of land and against the record owner or owners thereof or against a person against whom the taxes thereon are assessed, a sum not exceeding the benefit the municipal officers deem fair and equitable towards defraying the expenses of said sewer construction together with any sewage disposal units and appurtenances that may be necessary for the proper operation of said sewer line.

13.1.4.3.2 Definitions.

For the purposes of this Article, the following definitions apply:

Benefited Parcel: A property which has gained direct access to a sewer main extension via frontage or an existing public right-of-way less than one hundred (100) feet distant, whether gravity flow is readily achievable or not.

13.1.4.3.3 Limitation on Assessment—Formula for Determining Cost.

The whole of the assessments may not exceed one-half the cost of the entire project contract price of constructing and completing the sewer line including all necessary appurtenances and sewage disposal units. The municipal officers shall devise and utilize a formula for determining the fair and equitable cost to the owner or owners of land so benefited.

13.2.2 Unbuildable Parcel Appeals.

13.2.2.1 Definitions.

The following definitions apply to this Section only:

Unbuildable means no structure containing or required to contain sanitary facilities may be legally constructed due to zoning restrictions.

13.2.2.2 Right to Unbuildable Parcel Appeal.

Any person owning a property, included in an adopted Assessment Plan for a sewer main extension project, not satisfied with the amount assessed pursuant to §13.1.4.3 may, prior to Assessment Fee payment due date and without limitation of time thereafter, appeal the assessed amount to the Board of Appeals (BoA), as an unbuildable parcel, provided that:

B. The assessed property was vacant, or was improved by structure(s) neither containing nor required to contain sanitary facilities.

760 The relief sought as noted in the request filing asked the Council to find:
761 **Include Shapleigh in assessment formula. Reduce property area assessed by size of wetlands and**
762 **unbuildable property.**
763 In order to grant the request, the applicant needed to demonstrate that:
764 **Shapleigh School should be included for assessment. Wetland areas should be excluded from area**
765 **calculations.**
766 Evidence submitted by the requester beyond what is shown on a plan: **None**
767 Evidence submitted by people other than the requester either for or against the issue: **None**
768 Evidence which Council enters into the record based on the personal knowledge of its members or
769 experts which Council has retained on its own behalf:
770 The applicant's evidence presented for the matter: [**was**] substantial;
771 [**was**] credible;
772 [**is**] outweighed by conflicting evidence from the Town; and, the applicant
773 [**did not**] meet the burden of proof for granting the request.
774 The sum of the information/circumstances presented and reviewed [**does not**] warrant a revision of the
775 Assessment.
776 What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?
777 **None**

778

779 • Deborah J. Rose

780 Name of the requester: **DEBORAH J. ROSE**
781 Map-Lot: **11-11** Street: **23 MARTIN ROAD**
782 Basic description of the issue on request:
783 **Frontage and area numbers are incorrect. Connection stub location / access in question.**

784 Ms. Rose stated the square footage in the Assessment is incorrect.

785 Mr. Kathios stated he observed the property and had discussion with the resident engineer. There was a
786 mistake made in the location of the connection stub. Ms. Rose's property only extends 2 feet on each side
787 of the building. The stub is located on Town line and he questioned how the Town will handle the
788 situation. He did not have a chance to speak with DPW.

789 An individual that was present with Ms. Rose who assisted with her application stated that Ms. Rose
790 prefers not to have an easement on her property because she is not in position to maintain more property.
791 The applicant requests that the assessment be based on correct size of the property.

792 Mr. Kathios explained that the sewer line would be extended into 20 feet of Town-owned land in order to
793 connect to her home. He questioned who would be responsible for maintenance and if there would be an
794 easement.

795 Mr. Kathios clarified to Chairperson Beers the exact delineation on the map between Ms. Rose's property
796 and the Town line.

797 Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the
798 record.

799 Councilor Dennett felt that the Town needs to decide what they can support and are willing to do
800 regarding the situation before continuing with deliberations on the applicant's request. Councilor
801 Thomson concurred with that statement and felt that additional information is required from various
802 parties. Vice Chairperson Denault supported the notion of continuing the applicant's request.

803 Councilor Thomson suggested that additional information could be made available within 90 days and
804 then an Assessment could be determined based on that. Chairperson Beers thought the property should be
805 removed from the Assessment until further information is received. Town Manager Granfield felt that 90
806 days would be a reasonable amount of time to provide the necessary information. Councilor Dennett
807 stated his support for continuance of the request.

808 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN**
809 **CODE TITLE 13, §1.4.3.5, TO [REVISE] THE ASSESSMENT MADE IN THE 2015 SEWER**
810 **MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 11**
811 **LOT 11 AT 23 MARTIN ROAD OWNED BY DEBORAH J. ROSE THAT THE LOT**
812 **FRONTAGE IS AFFIRMED AT 25 FEET; LOT SIZE IS AFFIRMED AT 3,750SF; AND; THE**
813 **ASSESSMENT CALCULATION IS TO BE SO REVISED; AND, THE TOWN WILL PROVIDE**
814 **CONFIRMATION OF AN ACCESS STUB TO THE PROPERTY LINE WITHIN 90 DAYS,**
815 **SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED BY A UNANIMOUS**
816 **ROLL CALL VOTE 7/0/0.**

817 Chairperson Beers asked that Town Manager Granfield keep Ms. Rose informed of the Town's findings
818 via written communication.

819

820 • Wallace W. Gerry

821 Name of the requester: **WALLACE W. GERRY**

822 Map-Lot: **20-13** Street: **27 ROUTE 236**

823 Basic description of the issue on request:

824 **Determine of gravity flow can be obtained taking drainage ditch on Southside of property, frostline,**
825 **and depth of service connection into consideration. Need access to service connection pipe without**
826 **crossing another owner's property. Service connection pipe constructed to my property line.**

827 **MR. GERRY ADVISED CONFIRMATION THAT GRAVITY FLOW WAS OBTAINABLE AND**
828 **WITHDREW THAT REQUEST.**

829 Mr. Gerry explained that the hub for both his house and apartment house on his property is located on
830 another individual's property that abuts Rte. 236. If the connection is made available on his property, then
831 he would not have any issue. Chairperson Beers replied that the evidence provided illustrates a connection
832 hub directly on Mr. Gerry's property.

833 Mr. Kathios explained that the two stubs were located off Mr. Gerry's property because of ditch
834 considerations. However, the Town would not object to paying for relocation of the connection hub, so
835 that it is available on Mr. Gerry's property.

836 Chairperson Beers concluded that the drawing provided to Council is incorrect. Mr. Kathios noted that
837 version is most likely the proposed version. The actual as-built version would depict the connection hub
838 on Mr. Gerry's property. That version had not been received yet at the time of the meeting.

839 Councilor Dennett recommended that the request be continued and the Sewer Department provide a letter
840 that indicates whether or not further requirements on the parcel owner are necessary for the connection
841 hub to be located on his property.

842 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO CONTINUE THE HEARING ON**
843 **THIS MATTER OF MAP 20 LOT 13 AT 27 RTE 236, OWNED BY WALLACE W. GERRY,**
844 **WITHOUT PENALTY OR PREJUDICE, UNTIL SUCH TIME AS THE SEWER DEPARTMENT**
845 **INSTALLS A SERVICE STUB TO THE PROPERTY; AND, IS RETURNED TO COUNCIL IN**

846 **DUE COURSE FOR CONCLUSION WITHIN 90 DAYS, SECONDED BY VICE CHAIRPERSON**
847 **DENAUT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

848

849 • Megan Greenwood

850 Name of the requester: **MEGAN & BRAD GREENWOOD**

851 Map-Lot: **30-25** Street: **2 APPLGATE LANE**

852 Basic description of the issue on request:

853 **Contesting property is not benefited because pump would be required; and, request consideration**
854 **for wetlands, distance and proximity of holding tank to sewer main.**

855 Mr. Greenwood explained that the proximity of the holding tank from the sewer main is approximately
856 365 feet. Due to the elevation changes and lack of gravity feed, a pump would be required. Therefore, he
857 felt that connection would not be easy to attain and the property should be exempt from betterment fees.

858 Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the
859 record.

860 Mr. Greenwood replied to Councilor Thomson that there is a leach field on the property.

861 Mr. Greenwood explained to Vice Chairperson Denault's questions that the sewer main is lower than the
862 elevation of the house. He added that two contractors concluded a pump would be required from the
863 holding tank to the main sewer line.

864 Mr. Kathios noted that the engineering firm did not survey the internal plumbing of homes. He explained
865 that there are situations when the septic tank is lower than the level of the home and the connection can
866 still be made. The pump station does not have to be located in an existing septic tank.

867 Chairperson Beers felt the evidence suggests that gravity flow opportunity does not exist and it does sit
868 more than 100 feet.

869 Councilor Dennett stated his opposition based on the Council's interpretation of 100 feet and for
870 consideration of the wetlands. Chairperson Beers noted that the wetlands were not part of consideration.
871 The access stub is at the property and the question was the gravity flow feed to the main sewer line.

872 Vice Chairperson Denault felt that the connection could be made regardless of the elevation. He stated his
873 support for the exception on the basis of the 100 feet.

874 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN**
875 **CODE TITLE 13, §1.4.3.5, TO AFFIRM THE ASSESSMENT MADE IN THE 2015 SEWER**
876 **MAIN EXTENSION ASSESSMENT PLAN ADOPTED ON AUGUST 15TH, 2016, ON MAP 30**
877 **LOT 25 AT 2 APPLGATE LANE OWNED BY MEGAN & BRAD GREENWOOD, AND**
878 **PURSUANT TO TOWN CODE TITLE 13, §1.1.11A, EXEMPTION FROM CONNECTION**
879 **REQUIREMENT IS GRANTED DUE TO STRUCTURE REQUIRING SEWAGE DISPOSAL**
880 **LOCATED GREATER THAN 100' FROM SEWER MAIN, SECONDED BY VICE**
881 **CHAIRPERSON DENAUT. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0 WITH**
882 **COUNCILOR DENNETT OPPOSED.**

883 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF**
884 **LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT**
885 **MAP 30 LOT 25 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY**
886 **VICE CHAIRPERSON DENAUT. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0**

887 WITH COUNCILOR DENNETT OPPOSED.

888 COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:

889 The application [is] complete; made a part of the record; and, the applicant [does] have standing.

890 The applicant's Burden of Proof [was] clarified to the Council. **Substantial evidence of claim.**

891 Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to
892 support a conclusion.

893 Assessment dimensions of the property and other arithmetical calculations used for calculating the
894 assessment [are] correct.

895 Assessment formula for this assessment [is] the same as all other in the adopted assessment plan.

896 There [are] mitigating factors related to this request not considered in the plan.

897 **Title 13, §1.1.11 Installation and Connection to Public Sewer Required.**

898 **A. Owners of all structures with use requiring the disposal of sewage with public sewer located**
899 **within one hundred (100) feet of the property line** as measured along any public way are required
900 at their expense to install suitable waste effluent and/or toilet facilities therein, and to connect such
901 facilities directly to the public sewer in accordance with the provisions of this chapter, within ninety
902 (90) days after date of official notice to do so.

903 **C. When gravity flow cannot be obtained from the building or the property, connection to said**
904 **public sewer is not required.** However, this does not preclude waste flows from being pumped to
905 the public sewer should the property owner so wish. Properties not required to connect at the time of
906 a main extension project for this reason must do so when the existing septic/leach field system fails or
907 must otherwise be replaced.

908 Key elements of the issue and applicable ordinance(s)/statute(s):

909 **Town Code Title 13, §1.1.11A and §1.1.11C**

910 The relief sought as noted in the request filing asked the Council to find:

911 **Whether gravity flow can be obtained from the parcel. Access to service connection stub.**

912 In order to grant the request, the applicant needed to demonstrate that:

913 **Gravity flow is or is not obtainable. Whether there is access to service stub not on property.**

914 Evidence submitted by the requester beyond what is shown on a plan: **None**

915 Evidence submitted by people other than the requester either for or against the issue: **None**

916 Evidence which Council enters into the record based on the personal knowledge of its members or

917 experts which Council has retained on its own behalf: **Tax Map 30 and Assessment map excerpts.**

918 **Construction engineer drawing excerpts. Aerial property view.**

919 **13.1.4.3.2 Definitions.**

920 For the purposes of this Article, the following definitions apply:

921 **Benefited Parcel:** A property which has gained direct access to a sewer main extension via frontage
922 or an existing public right-of-way less than one hundred (100) feet distant, whether gravity flow is
923 readily achievable or not.

924 **Assessed Parcel:** A benefited property included in an adopted Assessment Plan obliging payment of
925 an Assessment Fee.

926 The applicant's evidence presented for the matter: [was] substantial;

927 [was] credible;

928 [is not] outweighed by conflicting evidence from the Town; and, the applicant

929 [did] meet the burden of proof for granting the request.

930 The sum of the information/circumstances presented and reviewed [does] warrant a revision of the
931 Assessment.

932 What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

933 **Structure greater than 100' distant from the sewer main.**

934 Chairperson Beers clarified to Mr. Greenwood that the betterment fee was not exempt from his
935 Assessment.

936

937 • David Gerasin

938 Name of the requester: **DAVID GERASIN, GERASIN FAMILY REALTY, LLC**

939 Map-Lot: **21-18** Street: **1 RTE 236**

940 Basic description of the issue on request:

941 **Relief from assessment fee due to granting of an easement to the Town, as had occurred for past**
942 **projects. Deferral of connection requirement for the 20-year period allowed for recently installed**
943 **septic systems. NOTED TO OWNER – ADMINISTRATIVE PROTOCOL TO TOWN**
944 **MANAGER.**

945 Mr. Timothy Phoenix, Attorney at Hoefle Phoenix Gormley & Roberts, P.A., was present for the hearing.

946 Mr. Phoenix stated he was involved in the original discussion with the Town for the negotiation of the
947 property easement. He explained that Mr. Gerasin was granted an easement over 1,800 feet long in 2014
948 with the understanding that there would be fair compensation in return. Mr. Gerasin negotiated with the
949 Town to reduce his betterment fee by \$6,400. The easements were recorded as such.

950 Mr. Phoenix explained that in the June 27, 2016 Town Council meeting, Mr. Gerasin learned that there
951 exists a policy for anyone who grants an easement to the Town would not be charged betterment fees. Mr.
952 Gerasin felt that policy applies to his current Assessment. Mr. Phoenix explained why the roughly
953 \$27,000 Assessment amount on the property should be reduced by about \$6,000 as a result of the Town's
954 policy to not require betterment fees for individuals that grant easements to the Town.

955 Mr. Phoenix stated that Mr. Gerasin does not have 286.15 linear feet along a public way of the sewer
956 main, which is contrary to what the Assessment indicates. The sewer main does not cross his property at
957 any point. It starts on an easement on his property. Mr. Phoenix concluded that Mr. Gerasin has no linear
958 feet of frontage. Thus, the total Assessment should be reduced based on what was previously mentioned,
959 then the remaining balance be waived based on the Town's policy for easements.

960 Councilor Thomson understood that the reference to the approximate \$6,000 is not associated to the
961 betterment fee, but rather the connection fees. The Council further explained the implications of the
962 betterment fees versus the connection fees.

963 Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the
964 record.

965 Councilor Dennett clarified that the Council has not had previous discussions with Mr. Phoenix on the
966 matter. Mr. Phoenix concurred.

967 Councilor Dennett suggested that the application could submit request for deferral to the Town Manager
968 based on the septic and leach installation.

969 Councilor White asked if in the past there have been Assessments that were granted waivers for the entire
970 cost. Chairperson Beers recalled three examples and the overall Assessment in those cases ranged from
971 \$2,000 to \$8,000.

972 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO RESOLVE, PURSUANT TO TOWN**
973 **CODE TITLE 13, §1.4.3.5, TO AFFIRM THE 2014 EASEMENT AGREEMENT AND THE**
974 **ASSESSMENT MADE IN THE 2015 SEWER MAIN EXTENSION ASSESSMENT PLAN**
975 **ADOPTED ON AUGUST 15TH, 2016, ON MAP 21 LOT 18 AT 1 ROUTE 236, OWNED BY**
976 **GERASIN FAMILY REALTY, LLC, SECONDED BY COUNCILOR DENNETT.**

977 Councilor Dennett noted that the motion does not consider the deferral option that he previously
978 suggested.

979 Chairperson Beers indicated to Vice Chairperson Denault that the six connections accorded have a current
980 value of \$36,400.

981 **THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0 WITH COUNCILOR WHITE**
982 **OPPOSED.**

983 **A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPROVE THE CONCLUSIONS OF**
984 **LAW AND FINDINGS OF FACT IN REGARD TO THIS HEARING FOR THE PROPERTY AT**
985 **MAP 21 LOT 18 AS DISCUSSED AND TO BE RECORDED IN THE MINUTES, SECONDED BY**
986 **COUNCILOR DENNETT. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0 WITH**
987 **COUNCILOR WHITE OPPOSED.**

988 6. ADJOURNMENT

989 Prior to adjournment, Chairperson Beers noted that only one individual had submitted an application for
990 the arbitration citizen panel at the time of the meeting. Council is obligated to nominate six individuals
991 and the Council begged indulgence from the Planning Board, Board of Appeals, and Board of Assessment
992 to serve.

993 **A MOTION WAS MADE BY COUNCILOR THOMSON TO ADJOURN THE MEETING AT**
994 **9:03 P.M., SECONDED BY COUNCILOR LEMONT. THE MOTION PASSED BY A**
995 **UNANIMOUS VOICE VOTE 7/0/0.**

996 Submitted by Marissa Day, Minutes Recorder, on October 3, 2016.

997 *Disclaimer: The following minutes constitute the author's understanding of the meeting. While every effort*
998 *has been made to ensure the accuracy of the information the minutes are not intended as a verbatim*
999 *transcript of comments at the meeting, but a summary of the discussion and actions that took place. For*
1000 *complete details, please refer to the video of the meeting on the Town of Kittery website at*
1001 *<http://www.townhallstreams.com/locations/kittery-maine>.*

- 1 1. Call to Order
- 2 Chairperson Beers called the meeting to order at 5:00 p.m.
- 3 2. Introductory
- 4 Chairperson Beers read the introductory.
- 5 3. Pledge of Allegiance
- 6 Chairperson Beers led the Pledge of Allegiance.
- 7 4. Roll Call
- 8 Answering the roll call were Chairperson Gary Beers, Vice Chairperson Charles Denault,
- 9 Councilors Russell White, Jeffrey Thomson, Judith Spiller, and Frank Dennett.
- 10 5. EXECUTIVE SESSION
- 11 There was no motion for an executive session. Item withdrawn.
- 12 6. DISCUSSION
- 13 There was no discussion by members of the public.
- 14 7. NEW BUSINESS
- 15 a. (090416-2) The Kittery Town Council moves to take action to appoint Kendra L. Amaral as
- 16 Town Manager, Tax Collector, Treasurer and Welfare Director with effect from October 24,
- 17 2016.
- 18 **A MOTION WAS MADE BY COUNCILOR THOMSON TO APPOINT KENDRA L. AMARAL**
- 19 **AS TOWN MANAGER, TAX COLLECTOR, TREASURER, PERSONNEL DIRECTOR,**
- 20 **PURCHASING AGENT, AND WELFARE DIRECTOR, WITH EFFECT FROM OCTOBER 24,**
- 21 **2016. SECONDED BY COUNCILOR SPILLER. ROLL CALL TAKEN WITH COUNCILOR**
- 22 **DENNETT ABSTAINING. MOTION CARRIED 6/0/1.**
- 23 b. (090416-3) The Kittery Town Council moves to approve the employment contract for Kendra
- 24 L. Amaral as negotiated and agreed upon.
- 25 **A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE THE EMPLOYMENT**
- 26 **CONTRACT FOR KENDRA L. AMARAL AS NEGOTIATED AND AGREED UPON.**
- 27 **SECONDED BY COUNCILOR SPILLER. ROLL CALL TAKEN WITH COUNCILOR**
- 28 **DENNETT VOTING IN THE NEGATIVE. MOTION CARRIED 6/1/0.**
- 29 8. ADJOURNMENT
- 30 **A MOTION WAS MADE BY COUNCILOR THOMSON TO ADJOURN THE MEETING AT**
- 31 **5:13PM. SECONDED BY COUNCILOR DENAULT. THE MOTION PASSED BY A**
- 32 **UNANIMOUS VOICE VOTE 7/0/0.**
- 33 Submitted by Gary Beers, Chairperson, on September 22, 2016.

- 1 1. Call to Order
- 2 Chairperson Beers called the meeting to order at 5:00 p.m.
- 3 2. Introductory
- 4 Chairperson Beers read the introductory.
- 5 3. Pledge of Allegiance
- 6 Chairperson Beers led the Pledge of Allegiance.
- 7 4. Roll Call
- 8 Answering the roll call were Chairperson Gary Beers, Councilors Russell White, Jeffrey
- 9 Thomson, Judith Spiller, and Frank Dennett.
- 10 5. EXECUTIVE SESSION
- 11 a. (10011616-1) The Kittery Town Council moves to go in to executive session with the Town
- 12 Manager and property owners in accordance with 1 M.R.S §405 (6) (C) to discuss a laNd
- 13 acquisition.
- 14 **A MOTION WAS MADE BY COUNCILOR THOMSON TO GO IN TO EXECUTIVE SESSION**
- 15 **WITH THE TOWN MANAGER AND PROPERTY OWNERS IN ACCORDANCE WITH 1 M.R.S**
- 16 **§405 (6) (C) TO DISCUSS A LAND ACQUISITION. SECONDED BY COUNCILOR SPILLER.**
- 17 **THE MOTION PASSED BY UNANIMOUS ROLL CALL VOTE 6/0/0.**
- 18 **A MOTION WAS MADE BY COUNCILOR THOMSON TO COME OUT OF EXECUTIVE**
- 19 **SESSION AT 5:42PM. SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY**
- 20 **UNANIMOUS ROLL CALL VOTE C/0/0.**
- 21 6. ADJOURNMENT
- 22 **A MOTION WAS MADE BY COUNCILOR THOMSON TO ADJOURN THE MEETING AT**
- 23 **5:42PM. SECONDED BY COUNCILOR DENAULT. THE MOTION PASSED BY A**
- 24 **UNANIMOUS VOICE VOTE C/0/0.**
- 25 Submitted by Gary Beers, Chairperson, on October 03, 2016.

1. Call to Order

Chairperson Beers called the meeting to order at 7:00 p.m.

2. Introductory

Chairperson Beers read the introductory.

3. Pledge of Allegiance

Chairperson Beers led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll call were Chairperson Gary Beers, Councilors Frank Dennett, Russell White, Kenneth Lemont, Judith Spiller, and Jeffrey Thomson.

Absent from the roll call was Vice Chairperson Charles Denault.

5. Agenda Amendment and Adoption

Chairperson Beers noted that Item 10a, Item 10b, Item 13c, and Item 13d were withdrawn due to questions that were raised.

Chairperson Beers requested that Item 13a be revised to insert “to be deposited into Account #111-43530, Miscellaneous Revenue” after the word “Yankee parks”.

Agenda was adopted, as amended.

6. Town Manager’s Report

Town Manager Granfield reviewed her written report.

Sewer Betterment Assessments – Several Town departments have been significantly involved in scheduling upcoming meetings, establishing payment systems for residents, and educating residents on the process, timeline, and requirements for sewer assessments. Full payments and payment plans are currently being accepted. Any individual who requested a deferral option will receive a response soon and there will be meetings scheduled to provide additional information regarding those hearings.

CGI Communications – CGI Communications has contacted the Town to offer their services. The company specializes in economic development and tourism to produce online videos of communities that interface with a municipal website. York County and several other Maine communities in the area utilize their services and there would be no cost to the Town. CGI Communications would like to know if the Town would move forth now or in the Spring. Town Manager Granfield will provide further information to the new Town Manager.

Title 4 Committee – Staff felt that it would be best to reschedule the September 27th meeting with the Title 4 Committee since a couple Councilors could not attend and until the new Town Manager begins.

34 **Transition** – The new Town Manager will take place the week of October 24th and Town
35 Manager Granfield will provide new information as they arise to keep her updated.

36 **Traffic** – There continues to be discussion with MDOT, Police, and DPW regarding traffic
37 issues related to the SML Bridge and the PNSY. One recent light timing issue at Haley Road and
38 Route 1 was resolved by replacing a sensor.

39 Town Manager Granfield reviewed items not included in her written report.

40 **Promotion** – Tim Rowell from the Wastewater Treatment Department was promoted to
41 Operator I.

42 **Interim Harbormaster** – The Port Authority appointed a new Interim Harbormaster, Scott
43 Alessio, on a part-time basis.

44 **Part-time Secretary Position** – The new Part-Time Secretary, Rachael Cook, began September
45 26th and will be staffed from Monday-Thursday from 8:15-3:45pm.

46 **Safety Program** – The safety program that the Human Resources Manager initiated was
47 evaluated by MMA and received positive feedback. As a result, the Town will save \$15,000 in
48 worker's compensation. Town Manager Granfield applauded Betsy Oulton for her efforts.

49 Councilor Thomson asked what the status of the DPW Foreman vacancy is. Town Manager
50 Granfield replied that there is an internal employee filling the vacancy in the interim and DPW is
51 currently reviewing applications for the permanent position.

52 7. Acceptance of Previous Minutes

53 Regular Meeting – September 12, 2016

54 Councilor Dennett abstained from voting on the minutes due to his absence in the September 12th
55 meeting.

56 The minutes were adopted, as presented.

57 8. Interviews for the Board of Appeals and Planning – None.

58 9. All items involving the town attorney, town engineers, town employees or other town
59 consultants or requested officials. – None.

60 10. PUBLIC HEARINGS – None.

61 11. DISCUSSION

62 a. Discussion by members of the public (three minutes per person)

63 Town Clerk, Maryann Place, indicated that the deadline for Council nominations was September
64 26th. The candidates for Town Council are Russell White, Jeffrey Pelletier, and Charles Denault.
65 The candidates for the School Department are Kimberly Bedard, Julie Dow, Rhonda Pomerleau,
66 and Faye Gourlie. There are three positions available for the School Board and two positions
67 available for Town Council.

68 b. Response to public comment directed to a particular Councilor – None.

69 c. Chairperson's response to public comments – None.

70 12. UNFINISHED BUSINESS – None.

71 13. NEW BUSINESS

72 a. Donations/gifts received for Council disposition

73 (090416-3) The Kittery Town Council moves to accept a donation in the amount of
74 \$60.00 from Kenneth M. Bonnell for the Thresher Memorial Fund to be deposited in account
75 #5007-43600 Thresher Memorial Fund.

76 **A MOTION WAS MADE BY COUNCILOR WHITE TO ACCEPT A DONATION IN**
77 **THE AMOUNT OF \$60.00 FROM KENNETH M. BONNELL FOR THE THRESHER**
78 **MEMORIAL FUND TO BE DEPOSITED IN ACCOUNT #5007-43600 THRESHER**
79 **MEMORIAL FUND WITH THANKS, SECONDED BY COUNCILOR SPILLER. THE**
80 **MOTION PASSED BY A UNANIMOUS VOICE VOTE 6/0/0.**

81 (090416-4) The Kittery Town Council moves to accept a donation in the amount of
82 \$4,500 from the Kittery Block Party Committee for the Community Center to be deposited in
83 account #2063-43600 KCC Fund Raising Account.

84 **A MOTION WAS MADE BY COUNCILOR WHITE TO ACCEPT A DONATION IN**
85 **THE AMOUNT OF \$4,500 FROM THE KITTEY BLOCK PARTY COMMITTEE FOR**
86 **THE COMMUNITY CENTER TO BE DEPOSITED IN ACCOUNT #2063-43600 KCC**
87 **FUND RAISING ACCOUNT WITH THANKS, SECONDED BY COUNCILOR**
88 **SPILLER. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 6/0/0.**

89 (090416-5) The Kittery Town Council moves to accept a donation of \$25,181.45 for
90 Rectangular Rapid Flashing Beacons from Yankee Parks to be deposited into Account #111-
91 43530, Miscellaneous Revenue and approves the installation of the RRFB at the suggested
92 locations at a cost not to exceed the gift amount.

93 **A MOTION WAS MADE BY COUNCILOR WHITE TO ACCEPT A DONATION OF**
94 **\$25,181.45 FOR RECTANGULAR RAPID FLASHING BEACONS FROM YANKEE**
95 **PARKS TO BE DEPOSITED INTO ACCOUNT #111-43530, MISCELLANEOUS**
96 **REVENUE AND APPROVES THE INSTALLATION OF THE RRFB AT THE**
97 **SUGGESTED LOCATIONS AT A COST NOT TO EXCEED THE GIFT AMOUNT**
98 **WITH THANKS, SECONDED BY COUNCILOR SPILLER.**

99 Councilor Thomson clarified that the gift is coming from an entity that has had a project
100 expansion approved by the Planning Board. Chairperson Beers concurred.

101 **THE MOTION WAS AMENDED BY COUNCILOR WHITE TO REPLACE YANKEE**
102 **PARKS WITH STEPHEN A. HYNES, SECONDED BY COUNCILOR SPILLER.**

103 Town Manager Granfield explained that the Finance Director indicated the funds would go into
104 the miscellaneous revenue account and then moved into an expenditure account once the funds
105 are released.

106 **THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 6/0/0.**

107 b. (090416-6) The Kittery Town Council moves to approve the disbursement warrants.

108 Town accounts payable of \$172,458.39.

109 Sewer account payable of \$7,414.09.

110 School accounts payable of \$115,320.71.

111 Total of all disbursement warrants of \$295,193.19.

112

113 Councilor Dennett stated that the Town and Sewer warrants are in order. Councilor Lemont that
114 the School warrants are in order.

115 **A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE THE**
116 **DISBURSEMENT WARRANTS, SECONDED BY CHAIRPERSON BEERS. THE**
117 **MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 6/0/0.**

118 e. (090416-9) The Kittery Town Council moves to approve a renewal application from
119 Kittery Foreside Inc., 60 Wallingford Square, Kittery for a Malt, Spirituous and Vinous Liquor
120 License for Anneke Jans, 60 Wallingford Square.

121 **A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE A RENEWAL**
122 **APPLICATION FROM KITTERY FORESIDE INC., 60 WALLINGFORD SQUARE,**
123 **KITTERY FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR**
124 **ANNEKE JANS, 60 WALLINGFORD SQUARE, SECONDED BY CHAIRPERSON**
125 **BEERS. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 6/0/0.**

126 f. (090416-10) The Kittery Town Council moves to approve a one day extension of the
127 service area of the premises externally on the current liquor license for The Black Birch, from
128 12:00 p.m. to 10:00 p.m. on October 23, 2016, for the Fuel & More annual fund raiser.

129 **A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE A ONE DAY**
130 **EXTENSION OF THE SERVICE AREA OF THE PREMISES EXTERNALLY ON THE**
131 **CURRENT LIQUOR LICENSE FOR THE BLACK BIRCH, FROM 12:00 P.M. TO 10:00**
132 **P.M. ON OCTOBER 23, 2016, FOR THE FUEL & MORE ANNUAL FUND RAISER,**
133 **SECONDED BY CHAIRPERSON BEERS. THE MOTION PASSED BY A UNANIMOUS**
134 **ROLL CALL VOTE 6/0/0.**

135 g. (090416-11) The Kittery Town Council moves to appoint a representative to meet with
136 the Chair of the Parks Commission to interview George Dow for his appointment to that board as
137 an associate member until 12/31/19.

138 **A MOTION WAS MADE BY COUNCILOR SPILLER TO APPOINT COUNCILOR**
139 **DENNETT TO MEET WITH THE CHAIR OF THE PARKS COMMISSION TO**
140 **INTERVIEW GEORGE DOW FOR HIS APPOINTMENT TO THAT BOARD AS AN**
141 **ASSOCIATE MEMBER UNTIL 12/31/19, SECONDED BY COUNCILOR LEMONT.**
142 **THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 6/0/0.**

143 h. (090416-12) The Kittery Town Council moves to authorize Fuel & More to hang a
144 banner across Rogers Road from September 26th to October 23rd, 2016 to advertise their fund
145 raiser event at the Black Birch.

146 **A MOTION WAS MADE BY COUNCILOR WHITE TO AUTHORIZE FUEL & MORE**

147 **TO HANG A BANNER ACROSS ROGERS ROAD FROM SEPTEMBER 26TH TO**
148 **OCTOBER 23RD, 2016 TO ADVERTISE THEIR FUND RAISER EVENT AT THE**
149 **BLACK BIRCH, SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED**
150 **BY A UNANIMOUS ROLL CALL VOTE 6/0/0.**

151 i. (090416-13) The Kittery Town Council moves to authorize the Traip Athletic Boosters
152 to hang a banner across Rogers Road from November 1st to November 12th, 2016 and to place
153 signs throughout town from October 31st to November 12th, 2016 to advertise the 8th Annual
154 Traip Athletic Boosters Craft Fair.

155 **A MOTION WAS MADE BY COUNCILOR WHITE TO AUTHORIZE THE TRAI**
156 **ATHLETIC BOOSTERS TO HANG A BANNER ACROSS ROGERS ROAD FROM**
157 **NOVEMBER 1ST TO NOVEMBER 12TH, 2016 AND TO PLACE SIGNS**
158 **THROUGHOUT TOWN FROM OCTOBER 31ST TO NOVEMBER 12TH, 2016 TO**
159 **ADVERTISE THE 8TH ANNUAL TRAI ATHLETIC BOOSTERS CRAFT FAIR,**
160 **SECONDED BY COUNCILOR LEMONT. THE MOTION PASSED BY A UNANIMOUS**
161 **ROLL CALL VOTE 6/0/0.**

162 j. (090416-14) The Kittery Town Council moves to schedule a date for a Sewer
163 Assessment Hearing.

164 Chairperson Beers noted that there were two individuals that would like to request a hearing, but
165 were unable to file within the original deadline. Also, other individuals thought the filing
166 deadline was September 19th. The motion would be to allow for a second hearing for those
167 individuals. He suggested that the filing deadline be October 11, 2016 at 4:00pm. The Council
168 reached consensus that if a small number of requests are received, then include them in the next
169 regular Town Council meeting. If more there are too many to fit into the regular meeting agenda,
170 then a separate special meeting would be held.

171 Councilor Thomson asked what rationale was provided by those individuals that did not know of
172 the September 19th deadline. Chairperson Beers stated he was told the information was not
173 publicized enough and the letter received did not indicate a deadline for the requests. Some
174 individuals appeared at the September 19th meeting with the understanding that they would
175 receive a hearing. He thought that the motion is a fair consideration and would help to maintain
176 transparency.

177 Town Manager Granfield suggested that additional information could be disseminated regarding
178 the various considerations for hearing requests, which are indicated on the filing form.
179 Chairperson Beers supported that notion.

180 Chairperson Beers clarified to Councilor Dennett that the hearings would be scheduled for
181 October 12, 2016 once the deadline has passed and all requests could be held in the regular
182 meeting.

183 k. (090416-15) The Kittery Town Council moves to sign the Municipal Warrant for the
184 November 8, 2016, Municipal Election.

185 **A MOTION WAS MADE BY COUNCILOR THOMSON TO SIGN THE MUNICIPAL**
186 **WARRANT FOR THE NOVEMBER 8, 2016, MUNICIPAL ELECTION, SECONDED**
187 **BY CHAIRPERSON BEERS. THE MOTION PASSED BY A UNANIMOUS ROLL**

188 **CALL VOTE 6/0/0.**

189 **14. COUNCILOR ISSUES OR COMMENTS**

190 Councilor White announced that the Comprehensive Plan Update Committee is in the midst of
191 conducting a review of the first draft chapters. The Implementation Plan will be presented for
192 public input on Thursday, November 3, 2016 from 6:00-8:30 PM at the STAR Theatre.

193 Councilor Lemont asked if Mr. Provencal's concern regarding the drainage issue stated at the
194 September 19th meeting was addressed by staff. Town Manager Granfield noted that
195 coordination has been had with both a contractor and Mr. Provencal. Changes were made as
196 recent as two weeks ago, however, she understood that Mr. Provencal still has concerns. She
197 noted that gravel was placed and the mail delivery truck drives through the area, which spreads
198 the gravel.

199 **15. COMMITTEE AND OTHER REPORTS**

200 **a. Communications from the Chairperson**

201 Amongst the three boards, there were only three volunteers at the time of the meeting for the
202 citizen arbitration panel. If at least six citizens are not formed, the Town would have to request
203 the Town Attorney to petition to superior court for further guidance since it is a State mandate.

204 An executive session will be held Monday, October 3, 2016 at 5:00pm to discuss land
205 acquisition.

206 The next regular Town Council meeting will be held on Wednesday, October 12, 2016 due to the
207 federal holiday.

208 **b. Committee Reports**

209 Councilor Thomson asked if the slot held for the Planning Board on October 3rd is not going to
210 occur. Chairperson Beers concurred.

211 Councilor Thomson noted that the renovations in the Kittery Community Center annex that
212 begin in the summer is almost complete. All tenants that were temporarily relocated are back in
213 the annex. There are people working on constructing the new TV broadcasting center. After the
214 construction begins, the S.A.F.E program and Head Start will be relocated into the annex behind
215 a secured wall. The KCC Board has discussed hosting a celebration around next May for their 5th
216 anniversary and an open house for the annex.

217 Councilor Thomson noted that the previous KCC Board meeting included a presentation from
218 Revision Energy to offer affordable solar power to non-profits and municipalities. The Board
219 will explore options that may be available for the KCC.

220 Councilor Spiller announced that the York River Study Committee is having a meeting on
221 September 27th at the Grand House. The Committee will be conducting a presentation on
222 Monday, October 24 in Council Chambers regarding the Committee's effort for the public,
223 Council, Conservation Commission, and Comprehensive Plan Update Committee.

224 **16. EXECUTIVE SESSION**

225 a. (090416-18) The Kittery Town Council moves to go in to executive session with the
226 Town Manager in accordance with 1 M.R.S §405 (6) (A) to discuss a personnel matter.

227 **A MOTION WAS MADE BY COUNCILOR SPILLER TO GO IN TO EXECUTIVE**
228 **SESSION AT 7:32 P.M. WITH THE TOWN MANAGER IN ACCORDANCE WITH 1**
229 **M.R.S. §405 (6) (A) TO DISCUSS A PERSONNEL MATTER, SECONDED BY**
230 **COUNCILOR WHITE. THE MOTION PASSED BY A UNANIMOUS ROLL CALL**
231 **VOTE 6/0/0.**

232 **A MOTION WAS MADE BY COUNCILOR LEMONT TO COME OUT OF**
233 **EXECUTIVE SESSION AT 8:01 P.M., SECONDED BY THOMSON. THE MOTION**
234 **PASSED BY A UNANIMOUS ROLL CALL VOTE 6/0/0.**

235 17. ADJOURNMENT

236 **A MOTION WAS MADE BY COUNCILOR THOMSON TO ADJOURN THE MEETING**
237 **AT 8:02 P.M., SECONDED BY COUNCILOR WHITE. THE MOTION PASSED BY A**
238 **UNANIMOUS VOICE VOTE 6/0/0.**

239 Submitted by Marissa Day, Minutes Recorder, on October 3, 2016.

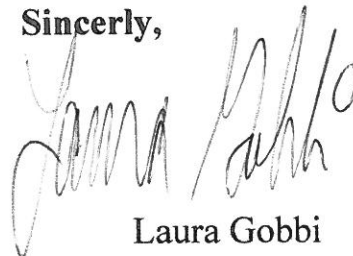
240 *Disclaimer: The following minutes constitute the author's understanding of the meeting. While*
241 *every effort has been made to ensure the accuracy of the information the minutes are not intended*
242 *as a verbatim transcript of comments at the meeting, but a summary of the discussion and*
243 *actions that took place. For complete details, please refer to the video of the meeting on the*
244 *Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>.*

**Laura Gobbi
6 Cutts Rd TRLR 87
Kittery, ME 03904
(207)337-5822
September 29, 2016**

To the members of the Town Council:

I am one of the parents from the 2017 Project Graduation Committee. I am heading up the fund raiser for a Toll Booth at the dump. We are requesting to set up on October 15th from 9 to 5 if we have enough volunteers. We appreciate your support in giving our children a fun evening after graduation. Hoping to hear your response as soon as you have made your decision at the next council meeting.

**Thank you.
Sincerely,**

A handwritten signature in dark ink, appearing to read 'Laura Gobbi', with a stylized flourish at the end.

Laura Gobbi

Kiwanis

www.kiwanis.org

September 12, 2016

Town of Kittery
Attn: Maryann Place – Town Clerk
CC: Carol Grandfield – Interim Town Manager
200 Rogers Road
Kittery, ME 03904

Dear Council Members,

The **Kiwanis Club of The Seacoast** is requesting permission from the Town to sponsor the annual Kittery Holiday Parade on Saturday – December 3, 2016 and to have the following Kiwanis Club member appointed as the Town's Official Parade Committee:

Glen Philbrook

41 Love Lane

Kittery

The parade will start at Post Office Square at 3:00pm, follow the traditional parade route through the downtown area, and conclude at the **John Paul Jones Park** with the tree lighting ceremony.

Should the case of inclement weather, we would like to have a rain date of Sunday – December 4, 2016 at 3:00 pm as the backup plan.

The **Kiwanis Club of the Seacoast** has sponsored the parade since 1994 and is looking forward to another successful community event again this year.

If you should have any questions concerning the parade, please contact Glen Philbrook at cell 603-799-8453 or Dan Witham.

Respectfully,

Daniel R Witham
Secretary
Kiwanis Club of the Seacoast
603-559-2614 w or 603-969-4694 c

Kiwanis Club of the Seacoast PO Box 285, Kittery, ME 03904
Frank Dennett – President Glen Philbrook – Immediate Past President
Dan Witham – Secretary Kim Marsh - Treasurer

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
10 WATER STREET, HALLOWELL, ME 04347
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	

NEW application: ☐ Yes ☒ No

PRESENT LICENSE EXPIRES 10/25/16

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- ☒ RESTAURANT (Class I,II,III,IV) ☐ RESTAURANT/LOUNGE (Class XI) ☐ CLASS A LOUNGE (Class X)
☐ HOTEL (Class I,II,III,IV) ☐ HOTEL NO FOOD (Class I-A)
☐ CLUB w/o Catering (Class V) ☐ CLUB with CATERING (Class I) ☐ GOLF COURSE (Class I,II,III,IV)
☐ TAVERN (Class IV) ☐ QUALIFIED CATERING ☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>DIVINE CUISINES L.L.C.</u>	Business Name (D/B/A) <u>TULSI INDIAN RESTAURANT</u>
APPLICANT(S) –(Sole Proprietor) DOB:	Physical Location: <u>20 WALKER STREET</u>
DOB:	City/Town State Zip Code <u>KITTERY ME 03904</u>
Address <u>20 WALKER STREET</u>	Mailing Address <u>20 WALKER STREET</u>
City/Town State Zip Code <u>KITTERY ME 03904</u>	City/Town State Zip Code <u>KITTERY ME 03904</u>
Telephone Number Fax Number <u>207-451-9511</u> <u>—</u>	Business Telephone Number Fax Number <u>207-451-9511</u> <u>—</u>
Federal I.D. # <u>02-0523796</u>	Seller Certificate #: or Sales Tax #: <u>1072793</u>
Email Address: Please Print <u>TULSIMAINE@GMAIL.COM</u>	Website: <u>WWW.TULSIINDIANRESTAURANT.COM</u>

If business is NEW or under new ownership, indicate starting date: NA

Requested inspection date: _____ Business hours: _____

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: NA
 2. State amount of gross income from period of last license: ROOMS \$ NA FOOD \$ 790,314.00 LIQUOR \$ 188,649.00
 3. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

If Yes, please complete the Corporate Information required for Business Entities who are licensees.

4. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒
 5. If manager is to be employed, give name: STANLEY CAMPBELL
 6. Business records are located at: 20 WALKER ST. KITTERY, ME 03904
 7. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐
 8. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

7. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married.
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
JANET HOWE	10/15/1940	FRAMINGHAM, MA.

Residence address on all of the above for previous 5 years (Limit answer to city & state)

KITTEBY, ME

10. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

11. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____

12. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

13. Does/do applicant(s) own the premises? Yes ☒ No ☐ If No give name and address of owner: _____

14. Describe in detail the premises to be licensed: (On Premise Diagram Required) _____
DINING ROOM + BAR AREA

15. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☒ NO ☐ Applied for: _____

16. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 200 YDS. Which of the above is nearest? CHURCH

17. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: SB LOANS; KENNEBUNK SAVINGS BANK

The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Eugene, OR on Sept 26, 2016
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name

Print Name



Division of Alcoholic Beverages and Lottery
Operations
Division of Liquor Licensing and Enforcement

**Corporate Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

1. Exact legal name: DIVINE CUISINES, LLC
2. Doing Business As, if any: TULSI
3. Date of filing with Secretary of State: _____ State in which you are formed: MAINE
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
JANET HOWE	68 ROGERS ROAD KITTELY, ME 03904	10/15/1940	OWNER/ MANAGER	50%
JANET HOWE	9 COOK STREET KITTELY, ME 03904			
RATESH MANDEKAR	68 ROGERS ROAD KITTELY, ME 03904		OWNER/ MANAGER	50%
RATESH MANDEKAR	9 COOK STREET KITTELY, ME 03904			

(Stock ownership in non-publicly traded companies must add up to 100%.)

6. If Co-Op # of members: _____ (list primary officers in the above boxes)
7. Is any principal person involved with the entity a law enforcement official?
Yes ☐ No ☒ If Yes, Name: _____ Agency: _____

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

9. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: _____

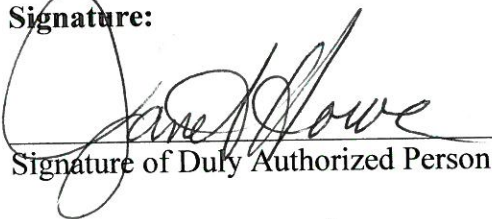
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

Date

9/26/16

JANET HOWE

Print Name of Duly Authorized Person

Submit Completed Forms To:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov

DIVISION USE ONLY

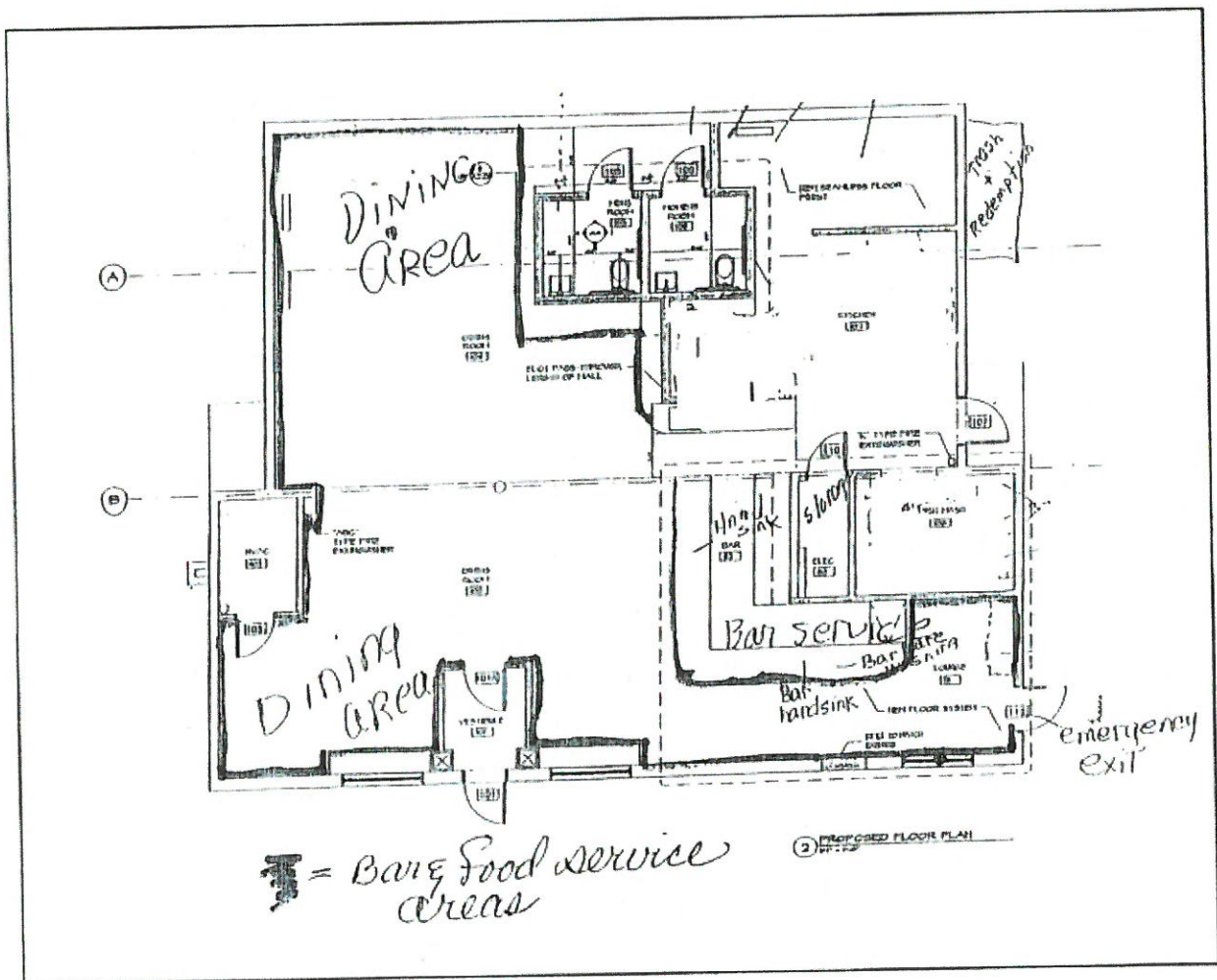
☐ Approved
☐ Not Approved

BY:

ON PREMISE DIAGRAM

In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, restrooms, decks and all areas that you are requesting approval from the Division for liquor consumption.



STATE OF MAINE

Dated at: _____, Maine _____
City/Town (County)

On: _____
Date

The undersigned being: ☐ Municipal Officers ☐ County Commissioners of the
☐ City ☐ Town ☐ Plantation ☐ Unincorporated Place of: _____, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c. 730, §27 (AMD).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c. 140, §4 (AMD).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application. [2003, c. 213, §1 (AMD).]

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant. [1995, c. 140, §5 (NEW).][2003, c. 213, §1 (AMD) .]

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime, [1987, c. 45, Pt. A, §4 (NEW).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c. 45, Pt. A, §4 (NEW).]

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c. 730, §27 (AMD).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c. 592, §3 (AMD).]

E. A violation of any provision of this Title; [2009, c. 81, §1 (AMD).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and [2009, c. 81, §2 (AMD).]

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages. [2009, c. 81, §3 (NEW).]

[2009, c. 81, §§1-3 (AMD).]

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c. 730, §27 (RP).]

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1993, c. 730, §27 (AMD).]

[1995, c. 140, §6 (AMD).]

4. No license to person who moved to obtain a license. [1987, c. 342, §32 (RP).]

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

[1995, c. 140, §7 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

Please be sure to include the following with your application:

Completed the application and sign the form.

Signed check with correct license fee and filing fee.

Your local City or Towns signature(s) are on the forms.

Be sure to include your ROOM, FOOD and LIQUOR gross income for the year (if applicable).

Enclose diagram for all businesses, auxiliary locations, extended decks and storage areas.

Complete the Corporate Information sheet for all ownerships except sole proprietorships.

If you have any questions regarding your application please contact us at (207) 624-7220.

FEE SCHEDULE

FILING FEE: (must be included on all applications)..... \$ 10.00

Class I Spirituous, Vinous and Malt \$ 900.00
CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.

Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only) \$1,100.00
CLASS I-A: Hotels only that do not serve three meals a day.

Class II Spirituous Only \$ 550.00
CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.

Class III Vinous Only \$ 220.00
CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.

Class IV Malt Liquor Only \$ 220.00
CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.

Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) \$ 495.00
CLASS V: Clubs without catering privileges.

Class X Spirituous, Vinous and Malt – Class A Lounge \$2,200.00
CLASS X: Class A Lounge

Class XI Spirituous, Vinous and Malt – Restaurant Lounge \$1,500.00
CLASS XI: Restaurant/Lounge; and OTB.

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. **All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.**

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the **Treasurer, State of Maine.**

This application must be completed and signed by the Town or City and mailed to:
 Bureau of Alcoholic Beverages and Lottery Operations
 Division of Liquor Licensing and Enforcement
 8 State House Station, Augusta, ME 04333-0008.
 Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY

LICENSE NUMBER:

CLASS:

DEPOSIT DATE

AMT. DEPOSITED:

BY:

CK/MO/CASH:

PRESENT LICENSE EXPIRES 11/27/16

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTIONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) Black Birch, Inc. DOB: 07/23/12	2. Business Name (D/B/A) The Black Birch
DOB:	
DOB:	Location (Street Address) 2 Government St
Address 2 Government St	City/Town Kittery State ME Zip Code 03904
	Mailing Address 2 Government St
City/Town Kittery State ME Zip Code 03904	City/Town Kittery State ME Zip Code 03904
Telephone Number 2077032294 Fax Number eat@theblackbirch.com	Business Telephone Number 2077032294 Fax Number eat@theblackbirch.com
Federal I.D. # 461023520	Seller Certificate # 1159546

3. If premises is a hotel, indicate number of rooms available for transient guests: NA

4. State amount of gross income from period of last license: ROOMS \$ NA FOOD \$ 746,000.00 LIQUOR \$528,000.00

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

7. If manager is to be employed, give name: NA

8. If business is NEW or under new ownership, indicate starting date: NA

Requested inspection date: _____ Business hours: 3:30-11:00pm

9. Business records are located at: 2 Government St, Kittery, ME 03904

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Gavin Beaudry	03/26/81	Nashua, NH
Benjamin Lord	09/13/77	Calais, ME
Jake Smith	11/20/75	Pawtucket, RI
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
Gavin Beaudry- Kittery, ME	Benjamin Lord- Dover, NH	Jake Smith- York, ME

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☒ NO ☐

Name: Benjamin Lord Date of Conviction: 10/21/05

Offense: DUI 1st Offence Location: Portsmouth, NH District Court

Disposition: Guilty

Name: Gavin Beaudry Date of Conviction: 08/21/03

Offense: Violation - Disorderly Conduct Location: Durham, NH District Court (now, Dover District)

Disposition: Guilty

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: _____

Studio Verte, LLC 172 Pepperell Rd Kittery, ME 03905

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) See Attached

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☒ NO ☐ Applied for: _____

19. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 250 yards Which of the above is nearest? Church

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: _____

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: _____ on _____, 20____
Town/City, State Date

Please sign in blue ink


Signature of Applicant or Corporate Officer(s)

BENJAMIN LORD
Print Name


Signature of Applicant or Corporate Officer(s)

GAVIN BEAUDRY
Print Name

NOTICE – SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

Class I	Spirituos, Vinous and Malt	\$ 900.00
	CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
	CLASS I-A: Hotels only that do not serve three meals a day.	
Class II	Spirituos Only	\$ 550.00
	CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	Vinous Only	\$ 220.00
	CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	Malt Liquor Only	\$ 220.00
	CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	
Class XI	Spirituos, Vinous and Malt – Restaurant Lounge	\$1,500.00
	CLASS XI: Restaurant/Lounge; and OTB.	

FILING FEE.....\$ 10.00

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to the **Treasurer of Maine**. This application must be completed and mailed to Bureau of Alcoholic Beverages and Lottery Operations, Division of Liquor Licensing and Enforcement, 8 State House Station, Augusta ME 04333-0008. Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

STATE OF MAINE

Dated at: _____, Maine _____ SS
City/Town (County)
On: _____
Date

The undersigned being: _____ Municipal Officers _____ County Commissioners of the
_____ City _____ Town _____ Plantation _____ Unincorporated Place of: _____, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§ 653. Hearings; bureau review; appeal

1. **Hearing.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.
 - A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]
 - B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd)]
 - C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of an application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal within 120 days of the filing of the application. [1999, c.589, §1 (amd).]
 2. **Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:
 - A. Conviction of the applicant of any Class A, Class B or Class C crime: [1987, c.45, Pt.A§4 (new).]
 - B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]
 - C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]
 - D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592, §3 (amd).]
 - E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]
 - F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]
- [1993, c.730, §27 (amd).]
3. **Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.
 - A. [1993, c.730, §27 (rp).]
 4. **No license to person who moved to obtain a license. (REPEALED)**
 5. **(TEXT EFFECTIVE 3/15/01) Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of an appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

**Supplemental Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

Black Birch, Inc

2. Other business name for your entity (DBA), if any:

The Black Birch

3. Date of filing with the Secretary of State: 07/23/12

4. State in which you are formed: Maine

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
Benjamin Lord	Dover, NH	09/13/77	45
Gavin Beaudry	Kittery, ME	03/26/81	45
Jake Smith	York, ME	11/20/75	10

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☒ No ☐

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: Benjamin Lord

Date of Conviction: 10/21/05

Offense: DUI 1st Offence

Location of Conviction: Portsmouth, NH District Court

Disposition: GUILTY

Name: Gavin Beaudry

Offense: Violation – Disorderly Conduct

Date of Conviction: 08/21/03

Location of Conviction: Durham, NH District Court, now Dover District

Disposition: GUILTY

Signature:

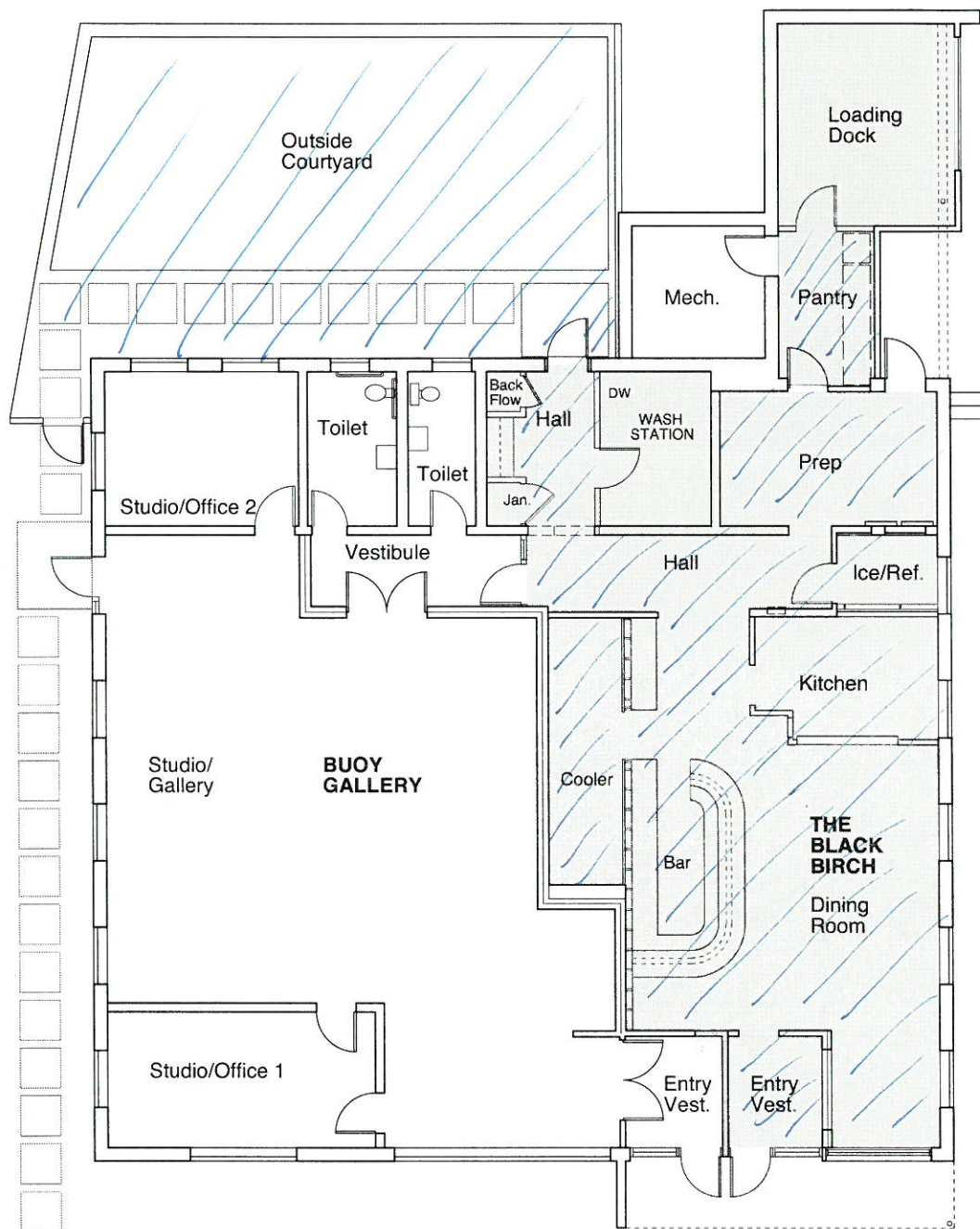

Signature of Duly Authorized Person

9/28/16
Date

BENJAMIN LORD
Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To: Bureau of Alcoholic Beverages and Lottery
Operations Division of Liquor Licensing Enforcement
8 State House Station Augusta, Me 04333-0008



FLOOR PLAN
2 Government Street

0 1' 4' 8' 16'

July 2016
ARQ Architects

A.1

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
10 WATER STREET, HALLOWELL, ME 04347
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	

NEW application: ☐ Yes ☒ No

PRESENT LICENSE EXPIRES 12-12-16

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- ☐ RESTAURANT (Class I,II,III,IV) ☒ RESTAURANT/LOUNGE (Class XI) ☐ CLASS A LOUNGE (Class X)
☐ HOTEL (Class I,II,III,IV) ☐ HOTEL NO FOOD (Class I-A)
☐ CLUB w/o Catering (Class V) ☐ CLUB with CATERING (Class I) ☐ GOLF COURSE (Class I,II,III,IV)
☐ TAVERN (Class IV) ☐ QUALIFIED CATERING ☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>Rolling In The Mud LLC</u>			Business Name (D/B/A) <u>When Pigs Fly Pizzeria</u>		
APPLICANT(S) -(Sole Proprietor) DOB:			Physical Location: <u>460 US Route 1</u>		
DOB:			City/Town <u>Kittery</u>	State <u>ME</u>	Zip Code <u>03904</u>
Address <u>460 US Route 1</u>			Mailing Address <u>40 BRICKYARD CT</u>		
City/Town <u>Kittery</u>	State <u>ME</u>	Zip Code <u>03904</u>	City/Town <u>YORK</u>	State <u>ME</u>	Zip Code <u>03909</u>
Telephone Number <u>207-438-7036</u>		Fax Number <u>207-363-2511</u>	Business Telephone Number <u>207-363-0612</u>		Fax Number
Federal I.D. # <u>27-3936816</u>			Seller Certificate #: or Sales Tax #: <u>114 8785</u>		
Email Address: Please Print <u>Info @ sendbread.com</u>			Website: <u>www.whenpigsflypizzeria.com</u>		

If business is NEW or under new ownership, indicate starting date: _____

Requested inspection date: 11-15-16 Business hours: 11:30 - 9 PM Daily

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: N/A
2. State amount of gross income from period of last license: ROOMS \$ 0 FOOD \$ 2405295 LIQUOR \$ 714732
3. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

If Yes, please complete the Corporate Information required for Business Entities who are licensees.

4. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒
5. If manager is to be employed, give name: ELIZABETH WOODCOCK
6. Business records are located at: 460 US Route 1 Kittery ME
7. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐
8. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

9. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
ELIZABETH Anne Woodcock	12-8-86	PORTSMOUTH NH
EMMA N Siegel	12-1-90	YORK, ME

Residence address on all of the above for previous 5 years (Limit answer to city & state)

Ogunquit ME & Portsmouth NH
Kittery ME

10. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☒ NO ☐

Name: Andrew Siegel Date of Conviction: 5/80

Offense: DUI Location: Portsmouth NH

Disposition: FINE & Suspension (use additional sheet(s) if necessary)

11. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

12. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

13. Does/do applicant(s) own the premises? Yes ☒ No ☐ If No give name and address of owner: _____

14. Describe in detail the premises to be licensed: (On Premise Diagram Required) SAME AS LAST YEAR

15. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☒ NO ☐ Applied for: _____

16. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 2.4 miles Which of the above is nearest? School

17. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: _____

The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: York, Maine on Sept 17, 2016

Town/City, State

Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name

Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications)..... \$ 10.00

Class I Spirituous, Vinous and Malt \$ 900.00
CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.

Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only) \$1,100.00
CLASS I-A: Hotels only that do not serve three meals a day.

Class II Spirituous Only \$ 550.00
CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.

Class III Vinous Only \$ 220.00
CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.

Class IV Malt Liquor Only \$ 220.00
CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.

Class V Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) \$ 495.00
CLASS V: Clubs without catering privileges.

Class X Spirituous, Vinous and Malt – Class A Lounge \$2,200.00
CLASS X: Class A Lounge

Class XI Spirituous, Vinous and Malt – Restaurant Lounge \$1,500.00
CLASS XI: Restaurant/Lounge; and OTB.

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. **All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.**

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the **Treasurer, State of Maine.**

This application must be completed and signed by the Town or City and mailed to:

Bureau of Alcoholic Beverages and Lottery Operations

Division of Liquor Licensing and Enforcement

8 State House Station, Augusta, ME 04333-0008.

Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

STATE OF MAINE

Dated at: _____, Maine _____
City/Town (County)

On: _____
Date

The undersigned being: ☐ Municipal Officers ☐ County Commissioners of the
☐ City ☐ Town ☐ Plantation ☐ Unincorporated Place of: _____, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c. 730, §27 (AMD).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c. 140, §4 (AMD).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application. [2003, c. 213, §1 (AMD).]

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant. [1995, c. 140, §5 (NEW).][2003, c. 213, §1 (AMD) .]

2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

*Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov*

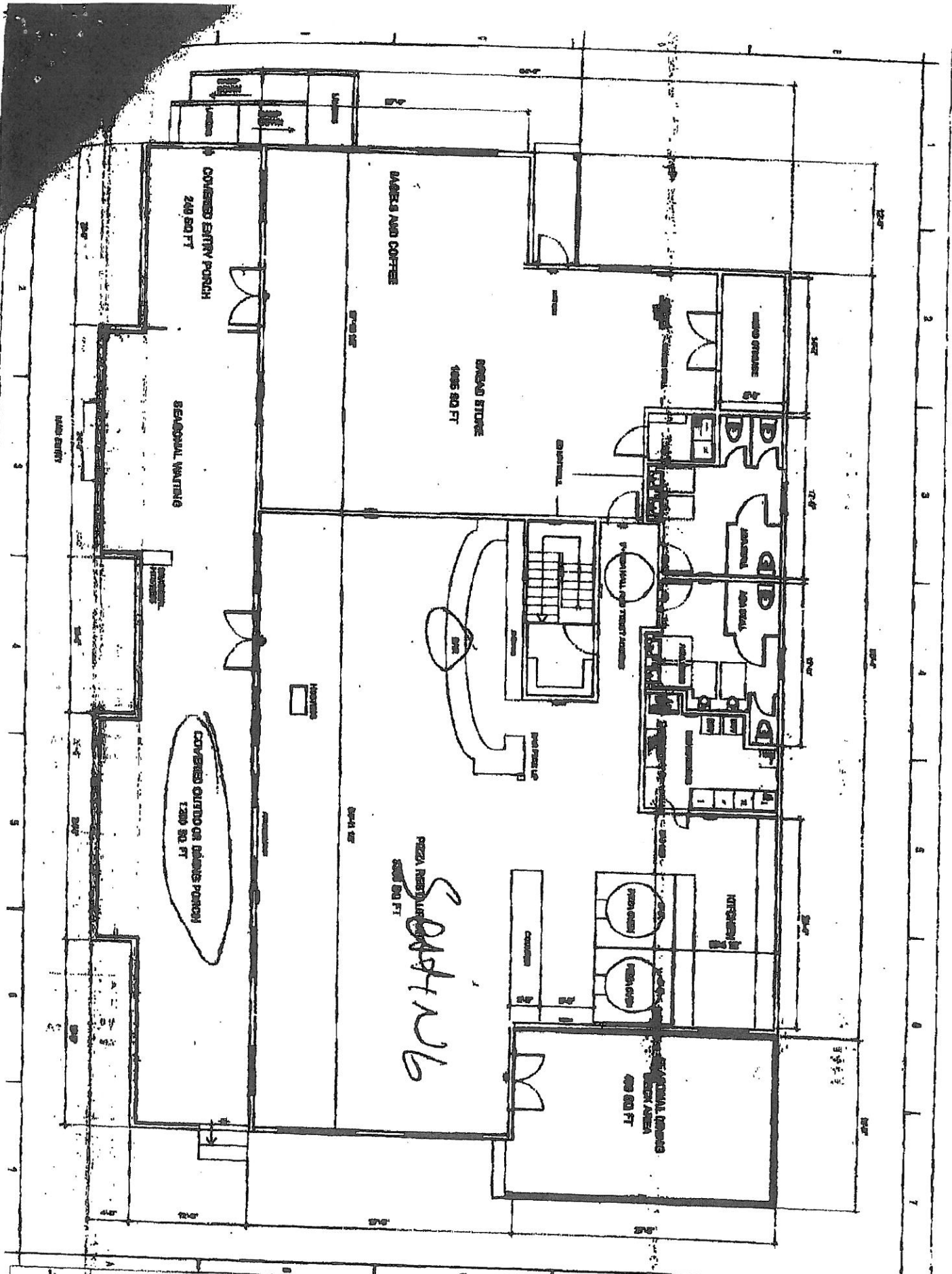
DIVISION USE ONLY
<input type="checkbox"/> Approved
<input type="checkbox"/> Not Approved
BY:

ON PREMISE DIAGRAM

In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, restrooms, decks and all areas that you are requesting approval from the Division for liquor consumption.

SEE
Attached



WHEN PIGS FLY KITTERY, MAINE

Drawn to Scale by John L. Lundy
P.O. Box 200
Kittery, Maine 04024-0200
Phone: (207) 865-4100
Fax: (207) 865-4100

- A. Conviction of the applicant of any Class A, Class B or Class C crime; [1987, c. 45, Pt. A, §4 (NEW).]
- B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c. 45, Pt. A, §4 (NEW).]
- C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c. 730, §27 (AMD).]
- D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c. 592, §3 (AMD).]
- E. A violation of any provision of this Title; [2009, c. 81, §1 (AMD).]
- F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and [2009, c. 81, §2 (AMD).]
- G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages. [2009, c. 81, §3 (NEW).]
[2009, c. 81, §§1-3 (AMD) .]

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

- A. [1993, c. 730, §27 (RP).]
- B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1993, c. 730, §27 (AMD) .]
[1995, c. 140, §6 (AMD) .]

4. No license to person who moved to obtain a license. [1987, c. 342, §32 (RP) .]

5. Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

[1995, c. 140, §7 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

Please be sure to include the following with your application:

Completed the application and sign the form.

Signed check with correct license fee and filing fee.

Your local City or Towns signature(s) are on the forms.

Be sure to include your ROOM, FOOD and LIQUOR gross income for the year (if applicable).

Enclose diagram for all businesses, auxiliary locations, extended decks and storage areas.

Complete the Corporate Information sheet for all ownerships except sole proprietorships.

If you have any questions regarding your application please contact us at (207)624-7220.



Division of Alcoholic Beverages and Lottery
Operations
Division of Liquor Licensing and Enforcement

**Corporate Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

1. Exact legal name: Rolling In The Mud LLC
2. Doing Business As, if any: WHEN Pigs Fly Pizzeria
3. Date of filing with Secretary of State: 10-21-10 State in which you are formed: MAINE
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
RONALD SIEGEL	25 HARBOR Hill YORK ME	9/9/58	President	50
Andrew Siegel	4 SNAP Hook DR YORK ME	3/3/62	Vice President	50

(Stock ownership in non-publicly traded companies must add up to 100%.)

6. If Co-Op # of members: _____ (list primary officers in the above boxes)

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒ If Yes, Name: _____ Agency: _____

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☒ No ☐

9. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: Andrew Siegel

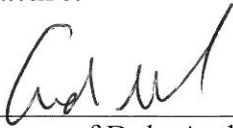
Date of Conviction: 5/80

Offense: OUI

Location of Conviction: Portsmouth NH

Disposition: Fine & Suspension

Signature:

 9-17-16
Signature of Duly Authorized Person Date

Andrew Siegel
Print Name of Duly Authorized Person

Submit Completed Forms To:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
10 WATER STREET, HALLOWELL, ME 04347
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	

NEW application: ☐ Yes ☒ No

PRESENT LICENSE EXPIRES OCTOBER 10, 2016

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☐ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- ☒ RESTAURANT (Class I,II,III,IV) ☐ RESTAURANT/LOUNGE (Class XI) ☐ CLASS A LOUNGE (Class X)
☐ HOTEL (Class I,II,III,IV) ☐ HOTEL NO FOOD (Class I-A)
☐ CLUB w/o Catering (Class V) ☐ CLUB with CATERING (Class I) ☐ GOLF COURSE (Class I,II,III,IV)
☐ TAVERN (Class IV) ☐ QUALIFIED CATERING ☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: <u>CLIFFORD ELEMENTS LLC</u>		Business Name (D/B/A) <u>BILLS ORIGINAL KITCHEN</u>	
APPLICANT(S) -(Sole Proprietor) <u>WILLIAM CLIFFORD</u>		DOB: <u>8-9-68</u>	
DOB:		Physical Location: <u>1 GOVERNMENT ST</u>	
Address <u>99 B HIGH ST</u>		City/Town <u>KITTERY</u>	State <u>ME</u>
City/Town <u>SANFORD</u>		State <u>ME</u>	Zip Code <u>03904</u>
Telephone Number <u>207 380 4871</u>		Fax Number	
Business Telephone Number		Fax Number	
Federal I.D. # <u>474658912</u>		Seller Certificate #: or Sales Tax #: <u>1174889</u>	
Email Address: Please Print <u>COOKOUT603@GMAIL.COM</u>		Website: <u>BILLSORIGINAL.COM</u>	

If business is NEW or under new ownership, indicate starting date: _____

Requested inspection date: _____ Business hours: _____

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: _____
2. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ 66000 LIQUOR \$ 8000
3. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

If Yes, please complete the Corporate Information required for Business Entities who are licensees.

4. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒
5. If manager is to be employed, give name: _____
6. Business records are located at: 1 GOVERNMENT ST KITTERY ME
7. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐
8. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

9. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
WILLIAM CLIFFORD	8-9-66	MT KISCO, NY

Residence address on all of the above for previous 5 years (Limit answer to city & state)

SANFORD ME, DOVER NH

10. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

11. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

12. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

13. Does/do applicant(s) own the premises? Yes ☒ No ☐ If No give name and address of owner: _____

GOLINI ENTERPRISES, 2 MOEBUS TERRACE, PORTSMOUTH NH

14. Describe in detail the premises to be licensed: (On Premise Diagram Required) 16 SEAT

RESTAURANT

15. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☒ NO ☐ Applied for: _____

16. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 400 FT Which of the above is nearest? CHURCH

17. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: I HAVE A PRIVATE LOAN WITH DIANE WYMAN, 21 CHANCEY ST, KATELY

The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Kittery ME on 9-21, 20 16

Town/City, State

Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

WILLIAM CLIFFORD

Print Name

Signature of Applicant or Corporate Officer(s)

Print Name

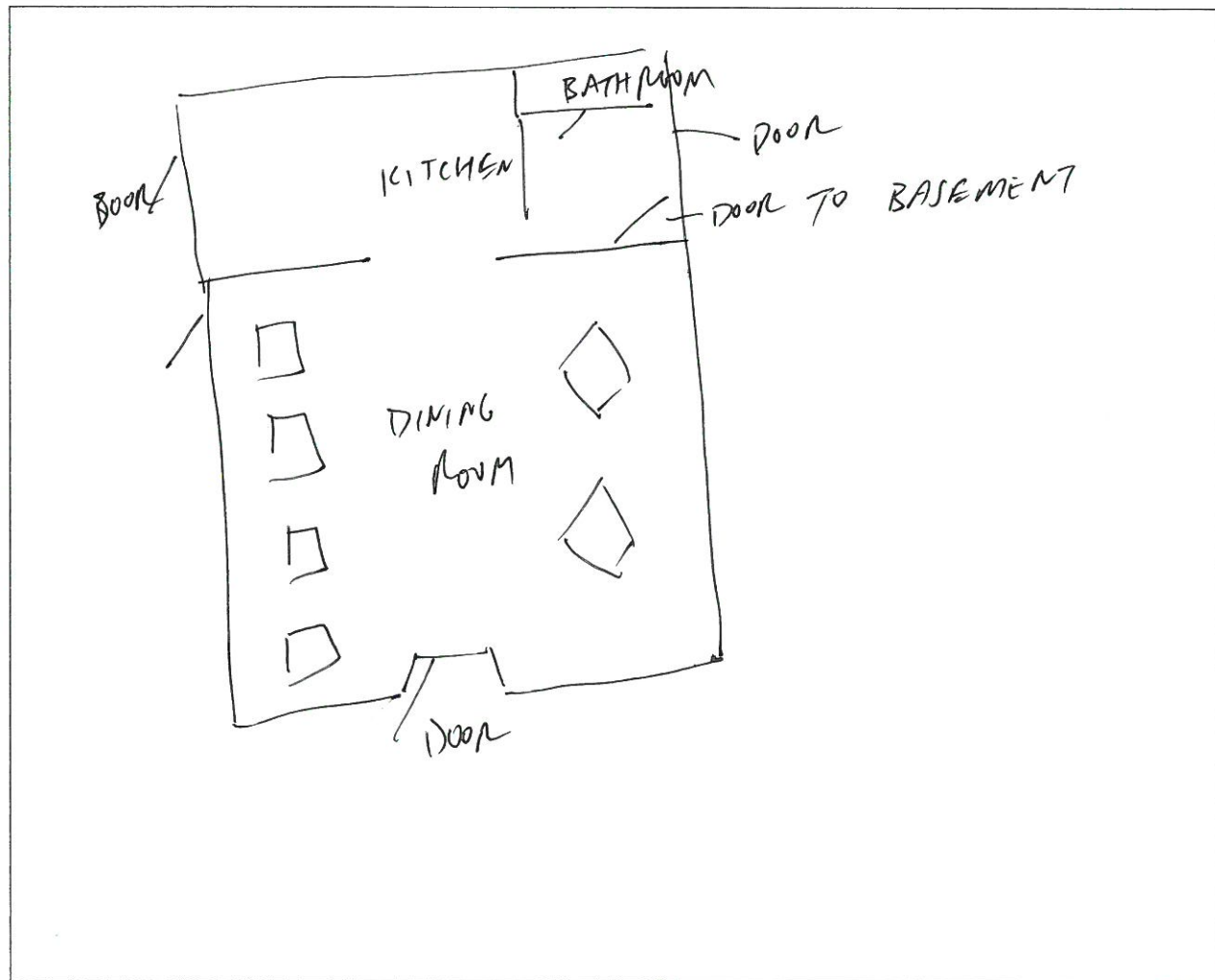
Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing & Enforcement
8 State House Station, Augusta, ME 04333-0008
10 Water Street, Hallowell, ME 04347
Tel: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@maine.gov

DIVISION USE ONLY	
<input type="checkbox"/>	Approved
<input type="checkbox"/>	Not Approved
BY:	

ON PREMISE DIAGRAM

In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, restrooms, decks and all areas that you are requesting approval from the Division for liquor consumption.





Division of Alcoholic Beverages and Lottery
Operations
Division of Liquor Licensing and Enforcement

**Corporate Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

- Exact legal name: CLIFFORD EVENTS LLC
- Doing Business As, if any: BILLS ORIGINAL KITCHEN
- Date of filing with Secretary of State: 7/9/15 State in which you are formed: ME
- If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

- List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
WILLIAM CLIFFORD	99 B HIGH ST SANFORD ME	8-9-68	OWNER	100
	6 BROOKMOR RD DOVER NH			

(Stock ownership in non-publicly traded companies must add up to 100%.)

- If Co-Op # of members: _____ (list primary officers in the above boxes)
- Is any principal person involved with the entity a law enforcement official?
Yes ☐ No ☒ If Yes, Name: _____ Agency: _____

8. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

9. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: _____


Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



9/16/16

Signature of Duly Authorized Person

Date

Print Name of Duly Authorized Person

Submit Completed Forms To:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov



TOWN OF KITTERY MAINE
TOWN CLERK'S OFFICE
200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1328 Fax: (207) 439-6806

2015 SEWER MAIN EXTENSION ASSESSMENT APPEAL
ARBITRATOR PANEL – COUNCIL NOMINATION

RECEIVED
SEP 12 2016

NAME: William Perce RESIDENCE: Kittery BY: 9:30 Am
MAILING: 53 Rogers Rd E-MAIL: WF5@yahoo.com
PHONE #: (HOME) (207) 451-9171 (WORK) _____

I am a legal resident of the Town of Kittery.

My property is serviced by _____ Town sewer / ☒ septic-leach field.

I understand that I must be disinterested or indifferent in the matter of any sewer assessment appeal made by property owners affected by the 2015 Sewer Main Extension Project: and, that a relationship by consanguinity or affinity within the 6th degree according to the civil law, or within the degree of 2nd cousins inclusive, with any owner so affected, except by written consent of the parties, disqualifies me for this duty.

I have no known conflict of interest related to this matter, as defined in Maine law and the Kittery Town Charter.

I have been given copies of:

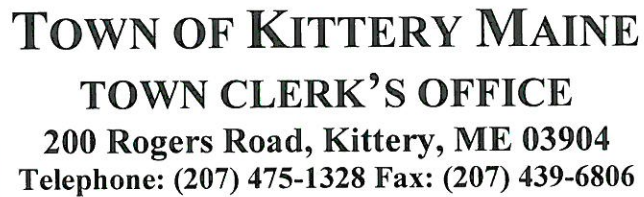
- ☒ 30-A MRS §3442, Expense of construction, and §3443, Arbitration of assessment;
- ☒ 14 MRS Chapter 706, Uniform Arbitration Act; and
- ☒ Kittery Town Code Title 13, Article IV, Main Extensions (excerpted).

[Signature]
(Nominee Signature)

9/12/16
(Date)

Maryann Flare
(Witness Signature)

9/12/16
(Date)



SEP 20 2016 ש

BY: 5:49 pm

PHONE #: (HOME) 603-321-4566 (WORK) Same as home

(Date)



TOWN OF KITTERY MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED
SEP 26 2016
BY: 2:45 PM

2015 SEWER MAIN EXTENSION ASSESSMENT APPEAL ARBITRATOR PANEL – COUNCIL NOMINATION

NAME: Craig Wilson RESIDENCE: 22 Charles Hill Rd, KP. 03905
MAILING: _____ E-MAIL: CWilson515@AOL.COM
PHONE #: (HOME) 439-4153 (WORK) same

I am a legal resident of the Town of Kittery.

My property is serviced by _____ Town sewer / ☒ septic-leach field.

I understand that I must be disinterested or indifferent in the matter of any sewer assessment appeal made by property owners affected by the 2015 Sewer Main Extension Project: and, that a relationship by consanguinity or affinity within the 6th degree according to the civil law, or within the degree of 2nd cousins inclusive, with any owner so affected, except by written consent of the parties, disqualifies me for this duty.

I have no known conflict of interest related to this matter, as defined in Maine law and the Kittery Town Charter.

I have been given copies of:

- ☒ 30-A MRS §3442, Expense of construction, and §3443, Arbitration of assessment;
- ☒ 14 MRS Chapter 706, Uniform Arbitration Act; and
- ☒ Kittery Town Code Title 13, Article IV, Main Extensions (excerpted).

Craig P. Wilson
(Nominee Signature)
Maryann Fleane
(Witness Signature)

9/26/16
(Date)
9/26/16
(Date)



TOWN OF KITTERY MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED
SEP 27 2016
4:30 pm

2015 SEWER MAIN EXTENSION ASSESSMENT APPEAL ARBITRATOR PANEL – COUNCIL NOMINATION

NAME: JEFF BRODIE RESIDENCE: 282 COTTAGE RD KITTERY

MAILING: _____ E-MAIL: JEFF.BRODIE@comcast.net

PHONE #: (HOME) 252-3687 (WORK) 252-3687

I am a legal resident of the Town of Kittery.

My property is serviced by _____ Town sewer / ☒ septic-leach field.

I understand that I must be disinterested or indifferent in the matter of any sewer assessment appeal made by property owners affected by the 2015 Sewer Main Extension Project; and, that a relationship by consanguinity or affinity within the 6th degree according to the civil law, or within the degree of 2nd cousins inclusive, with any owner so affected, except by written consent of the parties, disqualifies me for this duty.

I have no known conflict of interest related to this matter, as defined in Maine law and the Kittery Town Charter.

I have been given copies of:

- ☒ 30-A MRS §3442, Expense of construction, and §3443, Arbitration of assessment;
- ☒ 14 MRS Chapter 706, Uniform Arbitration Act; and
- ☒ Kittery Town Code Title 13, Article IV, Main Extensions (excerpted).

Jeff Brodie
(Nominee Signature)

9-27-16
(Date)

Margaret Flea
(Witness Signature)

9/27/16
(Date)



TOWN OF KITTERY MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED
SEP 29 2016

2015 SEWER MAIN EXTENSION ASSESSMENT APPEAL

ARBITRATOR PANEL – COUNCIL NOMINATION

BY: 11:15 AM

NAME: VERM GARDNER RESIDENCE: 2 TUCKER COVE

MAILING: P.O. Box 214 Portsmouth N.H. 03802 E-MAIL: VERM GARDNER@COMCAST.NET

PHONE #: (HOME) 439-4359 (WORK) 603-431-4560

I am a legal resident of the Town of Kittery.

My property is serviced by Town sewer / ☒ septic-leach field.

I understand that I must be disinterested or indifferent in the matter of any sewer assessment appeal made by property owners affected by the 2015 Sewer Main Extension Project: and, that a relationship by consanguinity or affinity within the 6th degree according to the civil law, or within the degree of 2nd cousins inclusive, with any owner so affected, except by written consent of the parties, disqualifies me for this duty.

I have no known conflict of interest related to this matter, as defined in Maine law and the Kittery Town Charter.

I have been given copies of:

- ☒ 30-A MRS §3442, Expense of construction, and §3443, Arbitration of assessment;
- ☒ 14 MRS Chapter 706, Uniform Arbitration Act; and
- ☒ Kittery Town Code Title 13, Article IV, Main Extensions (excerpted).

[Signature]
(Nominee Signature)

09/29/16
(Date)

[Signature]
(Witness Signature)

9/29/16
(Date)

RECEIVED
OCT 03 2016



BY: 8:25 am
TOWN OF KITTERY MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1328 Fax: (207) 439-6806

**2015 SEWER MAIN EXTENSION ASSESSMENT APPEAL
ARBITRATOR PANEL – COUNCIL NOMINATION**

NAME: SHAWN HARRIS RESIDENCE: 88 Piccott Rd Kittery
MAILING: _____ E-MAIL: to be
PHONE #: (HOME) _____ (WORK) (603) 501 9794

I am a legal resident of the Town of Kittery.

My property is serviced by _____ Town sewer / ☒ septic-leach field.

I understand that I must be disinterested or indifferent in the matter of any sewer assessment appeal made by property owners affected by the 2015 Sewer Main Extension Project: and, that a relationship by consanguinity or affinity within the 6th degree according to the civil law, or within the degree of 2nd cousins inclusive, with any owner so affected, except by written consent of the parties, disqualifies me for this duty.

I have no known conflict of interest related to this matter, as defined in Maine law and the Kittery Town Charter.

I have been given copies of:

- ☒ 30-A MRS §3442, Expense of construction, and §3443, Arbitration of assessment;
- ☒ 14 MRS Chapter 706, Uniform Arbitration Act; and
- ☒ Kittery Town Code Title 13, Article IV, Main Extensions (excerpted).

[Signature]
(Nominee Signature)

10/3/16
(Date)

(Witness Signature)

(Date)

to be
mailed

2016 TENTATIVE AGENDA ITEMS

October 17, 2016 – 6:00 p.m. Workshop – Parks Commission

October 17, 2016 – 7:00 p.m. Special Meeting?

- Sewer Assessment Hearings

October 24, 2016 – 6:00 p.m. Workshop – York River Study Committee

- Disbursement Warrants
- Title 13
- Title 6 & 12
- Park Fees
- Highpoint Circle acceptance
- MSDSonline Contract (schedule public hearing)

November 14, 2016

- Disbursement Warrants
- Oath of Office Town Council
- Elect a Chairperson
- Elect a Vice Chairperson
- Adopt its Current Rules
- Appoint Councilor's to Standing, Adhoc and Council Committees
- Close departments the day after Thanksgiving

November 28, 2016

- Disbursement Warrants

December 12, 2016

- Disbursement Warrants

December 28, 2016

- Disbursement Warrants

REPORT to the KITTELY TOWN COUNCIL

Fort Foster Update

October 17, 2016

The first two pages are a summary of a further detailed Report to Council. The Parks Commission reviewed many issues concerning the Parks Commission and the Town Council. The detailed report provides information on each solution and begins on page 3. The focus of the agenda is in order of priority as represented by the outcome of the previous workshop and Parks Commission opinion. It is the request of the Parks Commission that if the Town Council would like to discuss an item at the workshop, the order be followed to be as effective as possible. If the Town Council has other ideas to add, the Parks Commission would request to receive the ideas in writing and will be happy to discuss them at a future time.

RESPONSIBLE INDIVIDUALS (Parks Commission):

Rich DeMarco (Co-Chair), Page Mead (Co-Chair), Gale Turner, Kristina DeMarco, Denise Payne, Dave Wrocklage, Richard Brooks, George Dow

Subject: Parks Commission update and recommendation on issues concerning Fort Foster

Current Situation:

Fort Foster attendance has increased significantly. This continues to put stress on resources and staff.

- The significant increase in use of the park has inherently increased the risk of safety and disobedience of the rules/regulation.
- Additional staff was requested by DPW.
- The gatehouse has been improved and increased police presence has been requested since the robbery.

DATA:

	2003 Gate Info			2015 Gate Info		
	Adults	Children	Dogs	Adults	Children	Dogs
May	777	173	61	3621	1321	344
June	671	496	12	3881	2246	302
July	3866	2102	169	8174	4473	618
Aug	2,846	1164	117	7987	3672	642
Sept	586	137	38	3405	1059	316
Totals	8,746	4,072	397	27,068	12,771	2,222
% increase				209%	214%	460%

Fort Foster has two sets of rules for Fort Foster; during Park Hours and when the park is closed. Although many issues occur at Fort Foster during both time periods the Parks Commission has looked at both time periods separately

1 **Parks Commission Recommendation during operation hours:**

2 It is believed that the increase in use puts pressure on resource and frequency of violations just based on the
3 law of numbers. Fort Foster is becoming a popular destination for locals and tourists. The increase in use warrants
4 the need for additional staff and more rule enforcement during park hours. As the top solution to multiple problems
5 it is the recommendation of the Parks Commission a Community Service Officer (CSO) position be developed and
6 begin by season opening 2017. The Parks Commission has begun to work through some details (appendix A), but
7 due to new leadership still requires support and input of the new Town Manager, new Police Chief, and new
8 Commissioner of Public Works.

9
10 **Parks Commissions recommendation when the park is closed:**

11 Fort Foster is a nice spot for dogs to run and be off leash. While the park is closed, Fort Foster provides this
12 privilege to dog owners. The Parks Commission does not see this as an issue. Former Police Chief Short confirmed
13 very little crime is seen at Fort Foster after hours. The Parks Commission does not see allowing pedestrians into the
14 park when the park is closed as an issue. The largest complaint is related to dog waste being left at the park.
15 Although the majority of complaints, during this time, are related to dogs and dog waste, the number of written
16 complaints averages <5 per year. The Parks Commission speculates this issue is more of a nuisance and a sign of
17 disrespect, but that the severity of the problem is exaggerated through word of mouth. More analysis should be
18 done to see how widespread and serious dog waste issues are.

19 The Parks Commission recommends to monitor the severity of dog waste and the number of complaints
20 during the 2016-2017 off season. The Parks Commission would recommend funding and implementing a public
21 opinion poll and has opened communication with Seacoast online to discuss polling options
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Problems at Fort Foster during park hours.

Current Situation:

The Parks Commission has tried posting park rules and word of mouth to educate people to respect the park, the rules, and other patrons. Gate attendants are vocal to educate visitors on park rules. Police and ACO make a presence. Despite these efforts, people complain of the lack of respect given to the rules during this time (ex. dogs waste, dogs on mom's beach, dogs off leash, reserve tables prior to opening, trash, cutting through the fence to access neighboring beach, future drone use, etc.) For full list of the FF Rules and Regulations (see appendix F). Dogs off leash is deemed the most concerning by the Parks Commission and afraid this could be a liability to the town if not enforced. Consequences could be serious and life changing. The town has an obligation to protect park visitors and its community. In addition, the increase in use inherently increases the risk to safety, disobedience of the rules/regulation, impacts the infrastructure, ability to control crowds, and experience of visitors.

Solutions:

- Increase enforcement (Supported by the PC):
 1. Community Service Officer (CSO) could be hired to patrol on foot and bike during park hours.
 - PRO – PROVED TO BE EFFECTIVE BY YORK (see appendix B) AND KITTELY ACO CONFIRMED VIOLATIONS ARE MINIMAL WHEN THERE IS A PRESENCE, VISUAL SIGN OF ACTION, ALLOWS THE PUBLIC AN OPPORTUNITY TO COMPLAIN AS CRIME IS BEING COMMITTED
 - CON – COST
 2. The ACO and Police can be used
 - PRO – EASY TO IMPLEMENT
 - CON – EFFECTIVENESS IS ONLY PROVEN WHILE PRESENCE IS ON SITE, COST COULD EXCEED THAT OF REO IF INCREASE USE, USING EXISTING RESOURCES FOR PATROL WOULD REDUCE PATROL OF OTHER AREAS
- Increase fines (Supported by the PC)
 - PRO – COULD DISCOURAGE VIOLATIONS, POTENTIAL INCREASE IN REVENUE FROM FINES
 - CON – REQUIRES CODE CHANGE AND ENFORCEMENT
- Segment Fort Foster for dogs allowed areas and no dogs allowed areas (Not supported by the PC):
 - PRO – PROVES EFFECTIVE IN PORTSMOUTH (ex. Pierce Island)
 - CON – POTENTIAL LOST REVENUE, LOGISTICS TO IMPLEMENT, POTENTIAL NEGATIVE REACTION FROM COMMUNITY, NOT EFFECTIVE WITHOUT ENFORCEMENT (ex. Baby Beach)
 - PC THOUGHTS: ADDING WATER AND WASTE RECEPTALS TO A FENCED IN AREA FOR DOGS TO RUN OFF LEASH AT ALL TIMES MIGHT BE SUPPORTED BY DOG COMMUNITY. BALLFIELD AND GRASS PARKING AREA PROVIDE OPTIONS FOR LOCATIONS
- Close Park to Non-Residents (Not supported by the PC):
 - PRO – REDUCES USE
 - CON – LOST REVENUE, LOGISTICS TO IMPLEMENT, POTENTIAL NEGATIVE REACTION FROM WIDESPREAD COMMUNITY
- Do not allow dogs during park hours (Not supported by PC)
 - PRO – SOLVES PROBLEM, NO COST TO IMPLEMENT
 - CON – THE POTENTIAL COMMUNITY DISAPPOINTMENT AND BACKLASH IS UNKNOWN, LOSS OF REVENUE
- Do nothing
 - PRO – EASY, NO COST,
 - CON – DOES NOT ADDRESS THE PROBLEM, POSSIBLE LIABILITY IF NOT ADRESSED

Problems at Fort Foster when the park is closed.

Background:

When Fort Foster closed, pedestrians are still allowed to enjoy the park and dogs are allowed off-leash. The a "pooper scooper" and "carry-in, carry-out" rule is in effect at all times. different during this time when there is little to no oversight. The rules currently in place are:

12.14.010 DOGS/ANIMALS

With the exception of dogs, no domestic animals are allowed in Fort Foster Park. Dogs are subject to the following conditions.

A. Dogs must be leashed at ALL times during park hours.(10AM-8PM) on weekends in May and September, and every day from Memorial Day until Labor Day, inclusive. A maximum leash of 8 feet is allowed.

B. While under the direct control (Off leash) of the owner or keeper, dogs are allowed in the park during the following days and times:

1. During weekdays, prior to Memorial Day in May
2. Before park opening (sunrise to 10AM) between Memorial Day and Labor Day.
3. During weekdays, after Labor Day in September.
4. Between sunrise and sunset from October 1 - April 30, inclusive.

A "Pooper Scooper" rule is in effect for dogs. Owners or keepers must take their dogs' solid waste with them when leaving the park. (Ord. 13-00).

12.14.030 PENALTIES

This chapter is enforced by the Kittery Police Department. Any person who violates any provision of this chapter commits a civil violation for which a penalty of not more than one hundred dollars (\$100) may be adjudged. All penalties recovered shall accrue to the benefit of the Town. (Ord. 14-05; Ord. 13-00).

Current Situation:

The Parks Commission has tried signs and word of mouth to educate people to respect the park, the rules, and other patrons. Despite these efforts, people complain regularly of the lack of respect shown during this time about leaving dog waste behind.

Possible Solutions:

- Do nothing (Supported by the PC):
 - PRO – EASY, NO COST,
 - CON – DOES NOT ADDRESS THE PROBLEM
- Increase enforcement (Supported by the PC):
 1. Community Service Officer (CSO) could be hired to patrol on foot and bike during park hours.
 - PRO – PROVED TO BE EFFECTIVE BY YORK (see appendix B) AND KITTEY ACO CONFIRMED VIOLATIONS ARE MINIMAL WHEN THERE IS A PRESENCE, VISUAL SIGN OF ACTION, ALLOWS THE PUBLIC AN OPPORTUNITY TO COMPLAIN AS CRIME IS BEING COMMITTED
 - CON – COST
 - 2.The ACO and Police can be used
 - PRO – EASY TO IMPLEMENT
 - CON – EFFECTIVENESS IS ONLY PROVEN WHILE PRESENCE IS ON SITE, COST COULD EXCEED THAT OF REO IF INCREASE USE, USING EXISTING RESOURCES FOR PATROL WOULD REDUCE PATROL OF OTHER AREAS
 - 3.Use video surveillance to monitor and catch violations
 - PRO – HELP TO MONITOR HIGH CRIME AREAS. COULD CATCH VIOLATIONS AS IT OCCURS
 - CON – POTENTIAL COST, RELOCATES PROBLEM TO NON MONITORED AREAS, ENFORCEMENT

- Install bio waste receptacles (Supported by the PC):
 - PRO – COULD SOLVE PROBLEM OR AT A MINIMUM MAKE THINGS BETTER
 - CON – COST, LOGISTICS TO IMPLEMENT AND MAINTAIN, USE WOULD EXPAND TO EVERYONE, REWARDS VIOLATORS
 - PC THOUGHTS - ACO OR PARK EMPLOYEES COULD WALK THE PARK PRIOR TO OPENING, CONTRACT OUTSIDE COMPANY OR INDIVIDUAL TO EMPTY
- Implement Education Program (Support is split in PC 3 in favor, 3 against)
ACO and others could pass out brochure at the beginning of the season (see appendix B)
 - PRO – MINIMAL TO IMPLEMENT, PROVES EFFECTIVE IN RYE
 - CON – ORGANIZATION OF IMPLEMENTATION, COST
- Change rule to be on leash at all times (Not Supported by the PC)
 - PRO – COMMON SENSE HAS DICTATED THAT OWNERS ARE MORE LIKELY TO PICK UP WASTE WHEN DOGS ARE ON LEASH
 - CON – THE POTENTIAL COMMUNITY DISAPPOINTMENT AND BACKLASH IS UNKNOWN, POTENTIAL LOSS OF REVENUE
- Do not allow dogs when the park is closed (Not supported by the PC):
 - PRO – SOLVES PROBLEM, NO COST TO IMPLEMENT
 - CON – THE POTENTIAL COMMUNITY DISAPPOINTMENT AND BACKLASH IS UNKNOWN, POTENTIAL LOSS OF REVENUE
- Close park to all pedestrians and dogs during non park hours (Not supported by the PC):
 - PRO – SOLVES PROBLEM
 - CON – RESTRICTS PUBLIC FROM ENJOYING A BENEFIT OF LIVING IN THE KITTELY COMMUNITY

Additional ideas of on-site waste incinerator, electronic key cards for residents only, personalized dog bags and all were deemed not practical

Community Watch Program

Judy Spiller has agreed to spearhead efforts to organize and build a community self policing force in the community. This is being looked into for implementation as soon as possible. This will not fall under the responsibility of the Parks Commission, but is supported by the PC. Preliminary thoughts are this group would help educate dog owners on site, can collect donation to help pay for dog bags (~\$400 during off season) or other possible expenses, can wear tee shirts to show belonging and presence. The Parks Commission would suggest any donations be directed to Kittery Maine Improvement Foundation.

Funding

Background:

- **2014 recommended multiple increases in fees.**
 - **Parks Commission recommended fees increase in 2014 with reasons of:**
 - **Park facilities have been updated (ex. Bathrooms, playground, gatehouse)**
 - **Most fees have not been increased in over 10 years**
 - **Parks Commission favors small incremental increases opposed to larger ones less often**
- **TC increased Out of Town passes from \$50 to \$60.**
 - **In 2015 431 OOT passes resulting in additional ~\$4310 in expected annual revenue**

Current Situation:

- **Fort Foster generates excess revenue**
 - **Total excess revenue for 2015 season was \$56818.5 going into the general fund**
 - **Fort Foster and Seapoint Beach Expenditures for 10/2014-10/2015 were \$131626.25**
 - **Fort Foster Revenues for 10/2014-10/2015 were \$188,444.75**
 - **(\$156283.25gate + 32161.5 town hall)**
- **Fort Foster's revenue has increased yearly since 2013.**
- **Department of Public Works budget has decreased yearly since 2013.**

Parks Commission Recommendation: It is the recommendation of the Parks Commission to increase the budget of the Department of Public Works to include the cost of a park monitor. If additional revenue is needed the Town Council should consider an increasing in fees.

Solutions:

- **Increase Budget**
 - It is the recommendation of the Parks Commission to increase the budget of the Department of Public Works to include the cost of any solutions implemented
 - The Parks Commission would recommend an increase the budget of the Department of Public Works to include the cost of professional help to finish updates to the Management Plan, adding a Community Service Officer (CSO) and better invasive species program
- **Review free passes being issued (see appendix C)**
- **Increase Fees**
 - Although increasing fees is a viable solution, the Parks Commission is not in favor of increasing fees.
 - The Town Council has shown precedent that money is available based on the approval of free passes to the school board.
 - The record keeping is not detailed enough to understand the benefits or consequences of increasing fees.
- **Dog Passes**
 - Parks Commission will consider this an option only if more funding is needed.
 - The logistics of instituting, executing, and enforcing have shown to be complex to initiate.
- **Extend Park Hours**
 - **PRO – POTENTIAL INCREASE IN REVENUE**
 - **CON – RULES NEED TO BE ENFORCED, STAFFING, POTENTIAL LOSS IN REVENUE IF VIEWED NEGATIVELY BY DOG OWNERS**

1 **Financial Review**

2 **Current Situation**

- 3 • Passes are sold at the Town Hall, at Fort Foster entrance gate
- 4 • Reservations are paid to the Recreation Department
- 5 • Information not shared consistently
- 6 • Data Collected is not detailed enough
- 7 ○ Names and amounts are kept by Town Hall
- 8 ○ No data is logged to display what was type of pass was purchased
- 9 ○ Only total revenue is kept by gate attendants
- 10 ○ No detail can be accessed by the Finance Director for revenue collected at the gate or Rec
- 11 Department
- 12

 \$20 Kittery season Pass

 \$15 duplicate non resident

 \$5 kittery duplicate pass

 \$0.50 Family member pass card

 \$5 senior citizen season pass

Passes not sold at town Hall

 \$1/\$5 Child/adult walkin

 \$60 Non resident pass

 \$100 bus

 \$50 Student school bus

 \$50,\$100 reservations

 \$10 Vehicle pass

13

14 **Parks Commission Recommendation:** It is the recommendation of the Parks Commission to fund implantation of

15 new electronic data collection software and establish ability to pay for gate issued passes with credit cards

16

17 **Solutions:**

- 18 • Restructure the way data is collected and stored for FF fees collected to understand the impact to
- 19 changing fees and generating revenue
- 20 • Computerized
- 21 • NEEDS INPUT FROM TOWN CLERK, FINANCE DIRECTOR, AND DPW TO WORK THROUGH LOGISTICS
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1 **Design new dog park**

2 Although Fort Foster currently provides a place for dogs to run, a new dog park could be instituted in Kittery.
3 It is viewed as is very effective in Portsmouth (Appendix B) to have designated dog spaces where water and waste
4 receptacles are provided. Smaller fenced in areas keep dog complaints to a minimum and are able to be effectively
5 policed.

6

7 **Parks Commission Recommendation:**

8 Developing public areas where no dogs are allowed (ex .playgrounds and athletic fields) should be balanced
9 with places that dogs are welcomed. Development of a dog park should be a requirement if any restrictions allowing
10 dogs at Fort Foster are considered.

- 11 • PRO – VIEWED POSITIVELY BY DOG OWNERS?, CONTAINS ISSUES
- 12 • CON – COST TO INITIATE AND MAINTAIN, ENFORCEMENT, LOSS OF PUBLIC USE OPEN SPACE
- 13 • PC THOUGHTS: JPJ – state owned and/or EMERY FIELD – by the old rec center could be looked at as
- 14 possible locations (see Appendix E)

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Management Plan is out of date for Seapoint and Fort Foster

Current Situation

- The Fort Foster Management Plan has been updated (see attachment) and needs help for completion
- The format is hard to work with in Microsoft Word and needs to be restructured
- Some text needs to be written by someone more qualified
 - Nancy Puff had tried to help with the reformatting and stopped helping when she resigned. I have a .pdf now that can not be changed.
 - Carol has offered to find help, but nothing has progressed.
 - New Manager has not been asked
- Seapoint is not as in need of as many changes and will be completed when additional help is confirmed

Solutions:

- Provide more professional help to complete
- Gary Beers has offered his input and will be consulted.

Seapoint Beach

Parking spots needs to be reviewed and might require an ordinance change per Chief Short

C. Parking is allowed on the south side of Seapoint Road from its intersection with Thaxter Road a distance of five hundred fifty (550) feet in a westerly direction, subject to the following restrictions:

- 1. All vehicles must be parked off the paved roadway surface;*
- 2. May 15th to September 30th, inclusive, all parking is limited to vehicles bearing valid Kittery solid waste stickers or guest permits issued by the police department;*
- 3. October 1st to May 14th, inclusive, parking is allowed without stickers.*

Dogs are still a complaint, but the mix of dogs allowed off leash or dogs not allowed could be keeping complaints to a minimum. The Parks Commission has received complaints of entitlement where only dogs off leash are allowed at seapoint and changing the reputation of Seapoint Beach being a Dog Beach should be considered.

Enforcement can be increased to make sure only resident dogs are using Seapoint Beach during the summer months

12.4.8 Animals.

No domestic animal is allowed within Seapoint or Crescent Beaches except that dogs, while under the control of their owner or keeper, are allowed on Crescent and Seapoint Beaches at times other than between the hours of 10:00 a.m. to 5:00 p.m. from June 15th through September 10th of each year. This limitation does not apply to guide or seeing eye dogs when used as such. At no time may the owner or keeper of any dog allow that dog to run at large on Crescent or Seapoint Beaches or enter upon any publicly owned saltmarsh immediately adjacent to Seapoint or Crescent Beach.

From May 15th and September 30th inclusive, only dogs licensed to town residents are allowed on Seapoint and Crescent Beaches.

A pooper scooper rule is in effect for dogs. Owners and keepers must properly dispose of animal waste either by placing it in supplied receptacle(s) or if one is not supplied by taking it with them when leaving the beaches.

1 **Not all Parks are represented by Parks Commission**

2 **Current Situation**

- 3 • Parks Commission is only overseeing Fort Foster and Seapoint Beach (see Appendix D)
- 4 • Conservation Commission oversees Rogers Park
- 5 • All other parks are overseen by DPW
- 6 • Creates confusion for TC

7
8 **Parks Commission Recommendation:**

9 The Parks Commission has reviewed all open spaces. Many do not require policies. The Parks Commission
10 has previously worked with Chair of Conservation Commission and Commission of Public Works to be
11 communicated with regarding any development or change to open spaces. The Parks Commission is open to
12 consider oversight on Legion Pond, Rice Ave, John Paul Jones Park (when town owned), Crescent Beach, Rip Rap at
13 Sarah Long Bridge (if available).

- 14 • Internal structure of Parks Commission
 - 15 ○ PC involvement: Fort Foster, Seapoint Beach
 - 16 ○ PC Limited Involvement: Legion Pond, Rice Ave, John Paul Jones Park (when town owned),
17 Crescent Beach, Rip Rap at Sarah Long Bridge
 - 18 ○ Open to Future Consideration of including Emery Field, Rogers Park, Town Farm (forest), Wood
19 island. **REQUIRES CONVERSATION WITH DPW AND CONSERVATION COMMISSION**
 - 20 ○ No PC involvement: Shapleigh School, Solid Waste, Haley Field, Seaward Rec Complex, Rice
21 Library, Traip Academy, Town Hall, Frisbee Field, Memorial Field, Memorial Circle, DPW, Naval
22 Museum, Frisbee Commons, Wallingford Square, Mitchell School, Old Red School Houses, Fort
23 McClary, Remick Preserve, Norton Preserve, Molton (forest), Furbish (forest), Cutts (forest),
24 Fairchild (forest), Martin Rd (forest), Ram Island, Town Landing, Norton Rd (forest), Frisbee
25 Wharf,

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27 **Solutions:**

- 28 • Change Parks Commission Duties on Town Code

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36 **Other Park Policies**

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38 **Invasive Species** – The Parks Commission would like to develop a program to reduce invasive species and control
39 their presence at FF.

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41 **Future Infrastructure Projects** - We will communicate with the CIP to get the necessary projects on their radar
42 Park Commission Issues

43
44 **Drones** – See appendix G
45
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APPENDIX A

Community Service Officer (CSO)

- Does not re-allocate existing police presence in Kittery. Just being a presence is proved to be an effective solution. Can enforce the rules. Would call police if situation escalates beyond control. Parks Commission has taken informal polls at Fort Foster which show the public supports the idea and would not need the individual to have a firearm. The Parks Commission would recommend the position fall under the police department and paid for by DPW.
- Cost
- Can Patrol Seapoint

Job Description

- 2 people part time. Stagger hours
- Needs to be flexible and weather dependent.
- Targeting College Students / Criminal justice majors
- Will be on bicycles
- Can write tickets and have jurisdiction to remove uncooperative people from the park
- Will be uniformed, will be unarmed, will radio police if confrontation escalates.

Department Inclusion:

- Police Department or DPW

Anticipated Cost:

- \$25,000
 - \$23,200
 - \$20/hr x 10hr = \$200/day
 - 9 weekends = 18 days
 - 14 weeks x7 = 98 days
 - 20hrs/week just during weekends in May/Sept
 - 70hrs/week during June, July, August
 - \$1800 additional incidental costs
 - Police chief is confident minimal cost for bikes.
 - Can potentially combine training costs an program with York
 - No benefits expected

APPENDIX B

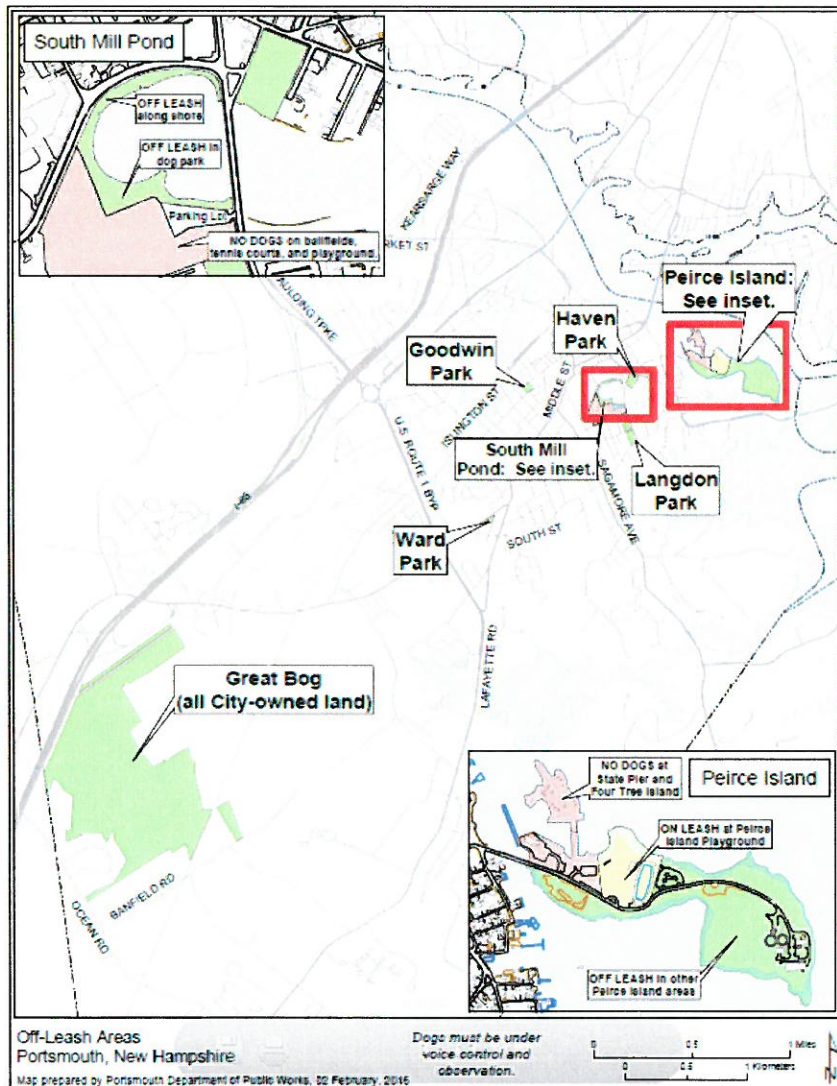
Mike Sullivan, director of Parks and Recreation in York 207-363-1040

8-5 leash law in effect. They Patrol well. Do not have a dog park. Off season leash law in effect except from 6am-8am is allowed off leash. Having trouble with waste on athletic fields. Waste receptacles weren't effective if they were not placed everywhere. There is a public organization "ARF" that was developed to protest not allowing dogs on beaches. There is a Resource Protection Officer/summer Public Relations Officers that was started a few years ago under Chief Doug Bracy. Not uniformed officers, but have red shirts. Explain ordinances and face to face discussions and call police. ACO, Larry McAfee, gave very positive feedback from his perspective and the public. They wrote 30 summons and tickets the first month when ordinance was put in effect. Kept track of names of people given warning. The word got out quickly and they saw immediate results with sidewalks. It was very effective when the word started to spread. Now does not write many now. All fines were publicized with names in the paper, which has helped. Very active issuing summons for dogs failure to control.

Russ Wilson, Director of Parks and Recreation in Portsmouth

Do not mix. 1) No dogs allowed on any playground or ball fields. 2) Off leash areas available all day 3) Dogs have to be on-leash everywhere else. Pocket Parks also can be off leash. List of off leash area on the website.

<http://www.cityofportsmouth.com/maps/OffLeashArea.pdf>



1 Pierce Island will be closed temporarily (for 5years). Biggest issue was dogs on the ball fields. After dogs were
2 banned from dog parks they have had very few problems. Signs on all ball field no dogs.
3 Dog parks areas have water and waste receptacles and bags and trash receptacle. DPW removed the trash
4 receptacles. Portsmouth DPW has 50-60 ee's
5 ACO , Bonnie Robinson 603-610-7441 is new in last 5 years. She has written ~210 tickets (265*80%) for dogs at large
6 and ~90 tickets (127*70%) for nuisance. She could be a good resource when increasing enforcement.
7
8 Chief Kevin Walsh, Rye Police Department
9 Police Department and ACO pass out brochure (below) at the beginning of the season for the last 3 years. Is past the
10 point of verbal warnings. Has set up a sting operation where ACO logged over 30hours during 2 weeks. No one was
11 catch, but the advertising did the job. See article below. Contemplating increasing fines.
12



13 **Attention Dog Owners**

14 The following information and suggestions for dog owners has been compiled from applicable Town of Rye
15 Ordinances.

16 Dogs are not permitted on Town beaches between the hours of 9:00 a.m. and 7:00 p.m. from the Saturday before
17 Memorial Day to the Saturday following Labor Day. The exception to this is the area between Wallis Sands State
18 Park and Odiorne State Park where dogs and people are allowed except when the beach is closed between midnight
19 and 6:00 a.m.

20 Horses are not permitted on Town beaches at any time from the first day of June to the first day of October.

21 The owner or custodian of any dog that defecates on Town of Rye beaches or other Town property shall
22 immediately pick-up all the waste, carry it, and take it with him or her upon leaving.

23 Dogs must be under the control of the owner or custodian at all times. The only exception is for dogs being used for
24 hunting and other supervised events.

25 Dog owners may receive a court summons if their dog(s):

- 26 • Barks for more than ½ hour or at night.
- 27 • Digs, scratches, excretes, causes waste or scatters garbage on property other than its owner's.
- 28 • Growls, snaps at, runs after or chases anybody.
- 29 • Runs after or chases bicycles, motorcycles or any other vehicles.
- 30 • Bites, attacks or preys on game animals, domestic animals, fowls or humans.
- 31 • Runs at large while not under the control of the owner/ custodian.

32
33 You must "carry out" your refuse. **Do not leave bagged refuse in a pile at the beach entrance.** This looks terrible,
34 creates a health hazard and is not fair to the Town employees who will have to clean up the mess.

35 *Please pay attention to these rules and assist us with our efforts to educate other pet owners. Don't hesitate to*
36 *politely remind others of the rules when appropriate.*

1 Rye police probing pet-poop perpetrator

2 Friday Posted Jul 29, 2016 at 12:08 PM Updated Jul 29, 2016 at 2:58 PM

3 By [Elizabeth Dinan](#)

4 edinan@seacoastonline.com

5 [@DinanElizabeth](#)

6 RYE — Police are trying to track down a dog owner, or owners, with a habit of dropping plastic bags of dog feces on
7 Marsh Road, possibly contaminating Parsons Creek.

8 Chief Kevin Walsh said he has a plan in place to try and catch the dog-poop culprit and called it "something different,"
9 while declining to reveal details of the sting. He said the littering of pet excrement is an environmental hazard and may
10 jeopardize allowing on beaches, while popular opinion for having dogs on beaches is "50-50."

11 "You have to pick up after dogs, or you might lose the privilege," he warned.

12 Walsh said bags of dog waste were left alongside Marsh Road throughout July and as recently as last week. He said the area
13 is between Ocean Boulevard and Parsons Road, across from Wallis Sands State Beach. The chief said he suspects the
14 culprits pick up after their dogs on the public beach, then "don't want to bring it home."

15 "It's your dog and it's a carry-in, carry-out beach," he said.

16 Walsh called the littering of animal waste an "inconsiderate act" and said the water in the nearby marsh is now being tested
17 for contamination. He said the state has been trying to find the source of contamination in Parsons Creek "for a while" and
18 the possibility exists that it could be linked to pet waste.

19 In January, the town held a [forum](#) about fecal contamination and pets were cited as possible sources.

20 Walsh said most people have seen bags of dog waste tied on rear window wipers of cars, or tied to vehicle bumpers, and
21 those often fall off en route.

22 "We want to find the source and stop the source," he said. "I think all people are environmentally conscious and if you end
23 up doing environmental damage, you can't fix it."

24 Potential penalties for pet-waste pollution, Walsh said, could include issuing a violation-level summons for littering that
25 carries a \$62 fine. Another possible penalty, he said, would be to charge a perpetrator with a class B misdemeanor charge of
26 unlawful activities, with fines of up to \$1,000.

27 Anyone with information about the pet poop is urged to call Walsh at (603) 964-7450 or email him at
28 kw Walsh@town.rye.nh.us.

29 Anonymous tips can be made through Seacoast Crime Stoppers at (603) 431-1199, online at
30 www.seacoastcrimestoppers.org, or by SMS text to CRIMES (274637) and including TIPSCS in the message. Rewards of
31 up to \$1,000 are paid for information leading to arrests and convictions.

APPENDIX C

2016 Free passes are provided for:

- Kittery Water District – 7 (3 non res, 4 res) = \$300
- Town employees – 11 (residency unknown)
- USS Annapolis – 23 (all non res) = \$1380
- Kittery Fire Department – 25 (all res) = \$500
- School Department – 204 (125 non res, 79 res) = \$9080
 - There have been conversations between DPW and school department patrons that display an entitlement of special treatment instead of gratitude.

Parks Commission

Mead, Page, Co-Chair	05/03/17	439-0638
DeMarco, Rich Co-Chair	05/03/17	439-5393
Turner, Gale	05/03/17	439-0550
DeMarco, Kristina	05/03/16	439-5393
Payne, Denise	05/03/16	439-2203
David Wrocklage	12/31/19	475-4521
Vacant	05/03/15	
Morrison, Michael, Assoc	03/26/17	603-231-1271

New Member – Richard Brooks

New Assoc Member – George Dow

Duties & Responsibilities

Sections:

- 2.13.010. Purpose.
- 2.13.020. Duties.
- 2.13.030. Powers.
- 2.13.040. Membership.

2.13.010. Purpose.

The town council may appoint a parks commission to provide ongoing citizen recommendations relating to the improvements or development of town-owned property that is or is likely to be developed into town parks to insure the preservation, beauty and protection of these most valuable sites. (Ord. 7-99 (part))

2.13.020. Duties.

The commission shall:

- A. Recommend to the town council an overall park management plan for the identification, protection, development or use of park lands and facilities;
- B. Meet with the town manager to review and advise, at least twice a year, on the status and progress of the park management plan and other pertinent issues;
- C. Coordinate its activities with those of the park, recreation, school and conservation bodies organized for similar purposes;
- D. Keep records of commission finances and activities, post agendas and minutes of meetings and make an annual report to the municipality;
- E. Assure that any recommended changes affecting municipal park properties are made in conjunction with the conservation commission;
- F. Formulate a commission budget to be presented to the town council for approval. (Ord. 7-99 (part))

2.13.030. Powers.

The commission may:

- A. Make recommendations for use of the parks and park facilities to the town manager and/or the planning board;
- B. Prepare and print books, maps and plans as it deems necessary;
- C. With the approval of the majority of the town council, apply for grants or receive gifts in the municipality's name for any of the commission's purposes and to administer these grants or gifts for those

stated purposes, as specified by the terms of the grant or gift consistent with all appropriate state statutes;

D. Make recommendations to the town council for revisions to the park fee policy and rate schedules. (Ord. 7-99 (part))

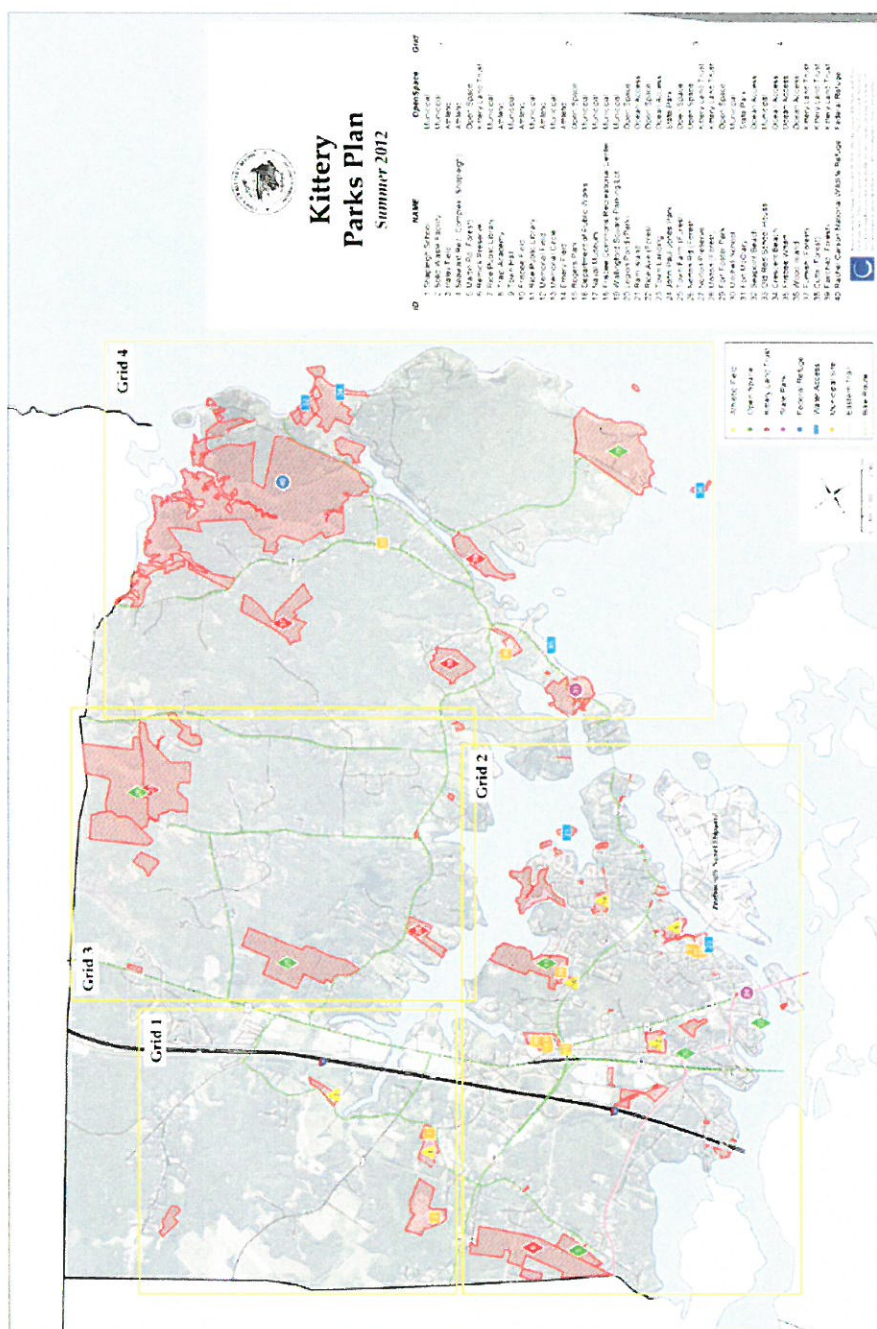
2.13.040. Membership.

A The commission consists of seven members, qualified under Section 2.07(2) of the town charter, who have demonstrated an interest in the town parks and facilities. Members shall initially be appointed for terms of one, two and three years, such that the terms of approximately one third of the members will expire each year. Their successors will be appointed for terms of three years each.

B. The commission may recommend to the municipal officers that associate members be appointed to assist the commission, as the commission requires. Associate members are nonvoting members except when a quorum is absent. Their terms of office shall be for one, two or three years. Associate members shall be selected from the qualified resident voters of the town. (Ord. 7-99 (part))

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APPENDIX F

FORT FOSTER PARK

POLICIES AND REGULATIONS

() indicates when policy/regulation went into effect

A. SCHEDULED HOURS OF OPERATION

1. Gate attendants will open the park on weekends in May before Memorial Day and September after Labor Day from 10:00 a.m. to 8:00 p.m. or sunset, whichever is earlier. (9/3/97)

2. The park will be open from 10:00 a.m. to 8:00 p.m., seven days a week from Memorial Day to Labor Day. (9/3/97)

3. There shall be no persons permitted except for authorized personnel within the park from sunset to sunrise. (9/3/97)

4. Pedestrian/foot traffic will be allowed from sunrise to sunset from October 1 to April 30 and weekdays in May before Memorial Day and in September after Labor Day. During these off season times the park is closed to unauthorized vehicular traffic including motorcycles, snowmobiles and all terrain vehicles. (11/25/85), (9/3/97)

B. GENERAL REGULATIONS

1. The vehicular speed limit within the confines of the park is 5 M.P.H. (9/3/97)

2. Littering is prohibited as provided by Chapter 8, Section 8.04.07 of the Kittery Town Code and users of the park must take their trash with them when they leave the park. (5/29/91), (9/3/97)

3. Fires are permitted only in grills or pits designed for cooking uses. (6/9/97), (9/3/97)

4. Consumption of alcoholic beverages is prohibited by State statute. (prior to '81)

5. Vehicles are permitted only on access roads and must park in designated parking areas. (9/3/97)

6. The Kittery Park Division and its employees are not responsible for lost or stolen property. (9/3/97)

7. Lifeguards are not provided and due to strong tidal currents, there is no swimming or diving allowed from the pier.

8. Non-motorized, windsurfers, sea kayaks and canoes are to be launched only from the area referred to as "Windsurfer's Beach." Such watercraft may be brought in on car-tops or trailers. If trailers are used, the trailer must be parked in the Upper Parking Lot after the visitor has dropped off their watercraft at Windsurfer's Beach. Commercial tours involving non-motorized watercraft (e.g., sea kayak tours) are not allowed to launch within Fort Foster. (8/23/04)

9. Dogs must be kept on a leash at all times. Owners will be asked to leave the park if their dog is not under control. (9/3/97)

10. A "pooper scooper" rule is in effect for dogs. Owners must take their dog waste with them when they leave the park. (6/9/97), (9/3/97)

11. Dogs are prohibited from Pier Beach east of the Pier for approximately 400 feet, or as designated by signs. (8/23/04)

12. Removal or destruction of any buildings, facilities, flora, or fauna is not permitted in order to preserve the environmental integrity of the park. (9/3/97)

13. No hunting and no firearms allowed in the park. (prior to '81)

14. Scuba diving is restricted to areas not within the main beach area, i.e. restricted ffirules 1/28/08

to areas outside the main beach and signs will be erected on either side of the main beach stating that no scuba diving is allowed between these points. (6/16/83)

15. Early entry into the park for the purpose of reserving a table is not permitted (9/3/97)

16. Commercial activities, such as selling merchandise and providing guided tours or instructional courses where participants pay a fee for the services, are prohibited from the Park without prior approval of the Town Council. (8/23/04)

C. SEASON PERMIT FEES (9/3/97)

1. Persons meeting Town residency requirements or property owners, except organizations and corporations, are entitled to a season permit for \$20.00 issued to them and their immediate family which means an individual, husband and/or wife and their blood relations that are residing in the same household. This includes a ward, foster child, or stepchild. (9/3/97), (9/26/05)

2. Kittery resident senior citizens (persons 62 years of age or older) may obtain one season permit for their own vehicle at a charge of \$5.00. (5/29/91), (9/3/97) (12/20/99)

3. Those persons not qualifying under No. 1 above may obtain at the Kittery Municipal Building or Fort Foster gate a season permit for \$60.00 per year.

(9/3/97) (12/20/99), (9/26/05), (1/28/08), (10/16/13)

4. A charge of \$5.00 shall be made for a duplicate resident, or resident senior citizen (62 years of age or older), or 100% disabled American veteran vehicle sticker. A charge of \$15.00 shall be made for a duplicate non-resident sticker. Receipt of original permit purchase required. (4/2/84), (10/16/13)

5. When an individual or family member goes to the Kittery Municipal Building to purchase a Fort Foster season permit, they must present the registration for the vehicle to which the sticker is to be attached. Pass cards may be issued at .50 each to any member of the immediate family with their full name and sticker number on that card. This pass allows entry only for the individual owner of the card. Vehicles may not enter the park using a pass card. (9/3/97), (9/26/05)

6. One and only one day pass may be used for credit towards the purchase of a resident or resident senior citizen (62 years of age or older) season permit. Amounts exceeding the cost of the permit will not be refunded and may not be applied towards the purchase of duplicates. (9/3/97)

7. All vehicle season stickers must be affixed no higher than four (4) inches from the bottom line of the driver's side of the windshield. (9/3/97), (9/26/05)

8. Vehicles with a capacity of more than 15 passengers can not obtain a season permit and must pay the regular day pass rates. (9/3/97)

9. Disabled American Veterans who are 100% disabled may obtain at the Kittery Municipal Building one free season permit for his/her own personal vehicle free of charge upon presentation of a Federally issued 100% Disabled Veteran Identification Card or a Veterans Administration Awards Letter of Entitlement stating 100% disability.

D. DAY-USE VISITOR PASS FEES

1. Motor Vehicle Day Pass - \$10.00 (includes pass for vehicle and occupants); (12/20/99) ffrules 1/28/08

2. Permanently Disabled American Veterans are allowed to receive a free Motor Vehicle Day Pass upon presentation of a Federally issued 100% Disabled Veteran Identification Card or a Veterans Administration Awards Letter of Entitlement stating 100% disability.

3. Bus Day Pass - \$100.00; (4/24/00)

4. Student School Bus Day Pass with adult chaperone(s) - \$50.00. (4/24/00)

5. Day-use visitor walk-ins or bike-ins shall pay \$5.00 per adult and \$1.00 per child under twelve years of age. (12/20/99) (4/24/00)

E. RESERVATION OF PAVILIONS

1. General

a. The maximum number permitted in any group is one hundred (100) people. (6/9/97), (9/3/97)

b. The pavilions are the only areas of the park which may be reserved for group use except for special events made by application and approved by the Town Council. (6/27/05)

c. Reservations are limited to one group for the season.

d. All groups reserving the pavilion area must leave the area in as good condition as it was found or be prohibited from using the facility in the future.

e. All trash must be removed by the group using the pavilion. Waste receptacles will not be provided by the Town. (5/29/91)

f. All groups using the pavilion must leave the area by 7:00 p.m. (5/29/91)

2. Reservation applications are accepted as follows:

(5/29/91), (9/3/97), (9/26/05)

a. Reservation forms are available from the Recreation Director, 200 Rogers Road, Kittery, Maine 03904, phone 207-439-3800, and checks should be made payable to the Town of Kittery. Forms must be completed and payment made prior to finalizing of the reservation date. (9/3/97)

b. January 1 - April 15 Reservations accepted from any Kittery group on a first come, first serve basis.

c. April 16-September 23. Any group or non-profit organizations. (9/3/97)

d. Each group or organization must provide two (2) 2' x 2' signs saying:

TOWER PAVILION

RESERVED TODAY

(NAME OF GROUP)

These signs should be posted by the group at the intersection of the Pier Road and the Pavilion Road and one at the Pavilion.

3. Tower Pavilion Reservation Fees: (5/12/86)

a. The reservation fee assures the group or organization that the pavilion will be reserved for their use. Payment of the pavilion fee does not include the park entrance fee, which will be collected at the gate. (9/3/97)

b. Groups must pay the following fee rates: (6/9/97), (9/3/97)

1. Small pavilion, group 35 or fewer people, \$51.50 (9/26/05) (11/24/14)

2. Tower pavilion, group 50 or fewer people \$102.50 (9/26/05) (11/24/14) ffrules 1/28/08

- 1 3. Tower pavilion, group 51-100 people \$153.75 (9/26/05) (11/24/14)
2 4. Cancellations will be charged a \$50.00 service fee. (6/3/97), (9/26/05)
3 4. Pavilion Use By Kittery Non-Profit Organizations (9/3/97)
4 a. Kittery based civic, social, or non-profit organizations like scouts, fire department, Traip class reunions or
5 church groups will be allowed into the park for one day per season free of charges provided: (9/3/97)
6 (1.) The reservation is made for weekends in May or September and weekdays from Memorial Day through
7 Labor Day; (9/3/97)
8 (2.) The head of the Kittery group or non-profit organization must submit a completed written application in
9 order to reserve the pavilion and have free entrance to the park. The application must give the desired
10 reservation date; alphabetized list of the names and number of people of the group; the individual responsible
11 for the group; and be submitted at least 7 days prior to the anticipated function date, otherwise gate fees will
12 apply. (9/3/97)
13 (3.) The Recreation Director will issue a written response and confirmation to the head of the organization.
14 (9/3/97)
15 (4.) Traip Class Reunions must be celebrating their 10th, 20th, 25th, or 50th anniversary, for other anniversary
16 years regular charges are required. (6/9/97)
17 (5.) Except for item 4.a, above all appropriate fees shall be assessed. (9/3/97)
18 F. SPECIAL EVENTS (6/27/2005)
19 1. The Park may be used for special events such as the annual Isles of Shoals Race, scout camporees, special
20 Town or School uses, or other activities upon approval of the Town Council. Application for special events
21 should be made through the Recreation Department, and the Recreation Director will then forward the request
22 to the Town Manager. The Town Manager should request the recommendations of the Parks Commission,
23 Recreation Department, Public Works Department, and may wish to include input from others, i.e., Police and
24 Fire Departments. The Town Manager's report or recommendation will be submitted to the Town Council for
25 their consideration and determinations. (6/27/05)
26 2. Fees may be charged for special events to cover the costs of Town employees providing services in
27 association with the event (e.g., opening a gate early). The Commissioner of Public Works will estimate the
28 costs associated with the event and forward these to the Town Manager (with a copy to the Parks
29 Commission) for inclusion with the Commission's recommendation concerning the event. The Town
30 Manager will then issue a decision in writing to the applying group. (8/23/04)
31
32 3. All special events must be compatible with the mission of the Park. (8/23/04) ffrules 1/28/08
33

1 **DEFINITIONS**

2 Town residency requirements: Proof of residency can be satisfied by one or more of the following showing a
3 Kittery address:

4 Maine drivers license

5 State of Maine ID

6 Maine vehicle registration

7 Utility bill

8 Piece of mail

9 Personal check

10 Rent or lease agreement

11 Buyers order for a new home

12 Being a registered voter in Kittery.

13 Season Permit: Includes a sticker, which allows entrance to Fort Foster for the current season, to be affixed to
14 the windshield or your vehicle and includes a walk-in pass for each member of the immediate family
15 identified as an individual, husband and/or wife and their blood relations who are residing in the same
16 household, which includes a ward, foster child, or step-child. (9/3/97)

17 Approved as amended 6/9/97

18 Approved as amended 9/3/97

19 Approved as amended 12/20/99

20 Approved as amended 4/24/00

21 Approved as amended 5/29/02 Approved as amended 8/23/04

22 Approved as amended 6/27/05

23 Approved as amended 9/26/05

24 Approved as amended 1/28/08

25 Approved as amended 4/14/08

26 Approved as amended 10/16/13

27 Approved as amended 11/24/14

29 **Title 6 ANIMALS**

30 **Chapter 6.1 DOGS**

31 **6.1.0 Exceptions. Seapoint / Crescent Beaches; Fort Foster.**

32 If in conflict with any section of this chapter, the provisions of Chapter 12.4 (Seapoint/Crescent Beaches)
33 or Chapter 12.5 (Fort Foster) will apply.

34 **6.1.1 Definitions.**

35 For the purpose of this chapter, the following terms have the meaning ascribed to them in this section.

36 **Animal control officer** includes municipal police officer.

37 **At large** means off the premises of the owner unless:

38 A. Controlled by a leash, cord or chain, of not more than eight feet in length;

39 B. Within a vehicle, or under restraint in an open vehicle being driven or parked on a public way; or,

40 C. Under the control of a person whose personal presence and attention would control the conduct of
41 the dog.

42 **12.4.8 Animals.**

43 No domestic animal is allowed within Seapoint or Crescent Beaches except that dogs, while under the
44 control of their owner or keeper, are allowed on Crescent and Seapoint Beaches at times other than
45 between the hours of 10:00 a.m. to 5:00 p.m. from June 15th through September 10th of each year. This
46 limitation does not apply to guide or seeing eye dogs when used as such. At no time may the owner or
47 keeper of any dog allow that dog to run at large on Crescent or Seapoint Beaches or enter upon any
48 publicly owned saltmarsh immediately adjacent to Seapoint or Crescent Beach. From May 15th and
49 50 51

September 30th inclusive, only dogs licensed to town residents are allowed on Seapoint and Crescent Beaches.
A pooper scooper rule is in effect for dogs. Owners and keepers must properly dispose of animal waste either by placing it in supplied receptacle(s) or if one is not supplied by taking it with them when leaving the beaches.

Chapter 12.5 FORT FOSTER

12.5.1 Animals.

With the exception of dogs, no domestic animals are allowed in Fort Foster Park, and dogs are subject to the following conditions:

A. Dogs must be leashed at all times during park hours (10:00 a.m. to 8:00 p.m.) on weekends in May and September, and every day from Memorial Day to Labor Day, inclusive. A maximum leash of eight feet is allowed.

B. While under control of the owner or keeper, dogs are also allowed in the park during the following days and times:

1. During weekdays, prior to Memorial Day in May;
2. Before park opening (sunrise to 10:00 a.m.) between Memorial Day and Labor Day;
3. During weekdays, after Labor Day in September; and
4. Between sunrise and sunset from October 1st to April 30th, inclusive.

A “pooper scooper” rule is in effect for dogs. Owners or keepers must take their dogs’ solid waste with them when leaving the park.

12.5.3 Enforcement and Penalty.

This chapter is enforced by the police department. Any person who violates any provision of this chapter commits a civil violation for which a penalty of not more than one hundred dollars (\$100.00) may be adjudged. All penalties recovered accrue to the benefit of the town. (

APPENDIX G

Drones – New Town Manager asked the Parks Commission to revisit the town policy for drones. This is forward thinking and the Parks Commission has discussed it.

Parks Commission Recommendation: It is the recommendation of the Parks Commission to do nothing at the current time. The Parks Commission feels Fort Foster is an appropriate place to fly drones and recommends to monitor any increase in complaints of invasion of privacy. The Parks Commission would support increasing on site patrol and encouraging visitors to call the police with concerns.

Background:

- Former Police Chief Short is unaware of any existing policy related to drones.
- Parks Commission received the first and only complaint of a drone in 2015. Complaint was received from a women sunbathing that a drone was flying over her taking pictures.
- There is not an easy way to distinguish which model aircrafts have cameras and which don't.
- Many drones have cameras now a-days. Not so much airplanes, single prop helicopters, kites
- There is not an easy way to know if drones are taking pictures
- Even if a camera is not taking pictures there still could be a live feed
- No local towns have drone policies yet.

Existing Oversight:

- FAA has safety guidelines for use which include: Don't fly near people or stadiums and Don't be careless or reckless with your unmanned aircraft – you could be fined for endangering people or other aircraft
https://www.faa.gov/uas/model_aircraft/
- FAA Brochure: http://knowbeforeyoufly.org/wp-content/uploads/2015/01/KBYF_Brochure.pdf
- State has a Statute: 5.11 VIOLATION OF PRIVACY 1. A person is guilty of invasion of privacy if...
- *D. Engages in visual surveillance in a public place by means of mechanical or electronic equipment with the intent to observe or photograph, or record, amplify or broadcast an image of any portion of the body of another person present in that place when that portion of the body is in fact concealed from public view under clothing and a reasonable person would expect it to be safe from surveillance.* [1997, c. 467, §1 (NEW).] <http://www.mainelegislature.org/legis/statutes/17-A/title17-Asec511.html>



Town of Kittery
Fort Foster Park
5-Year Management Plan

2015-2020



Kittery Parks Commission
Town of Kittery

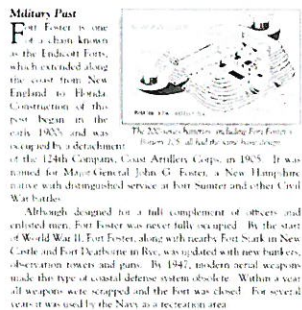
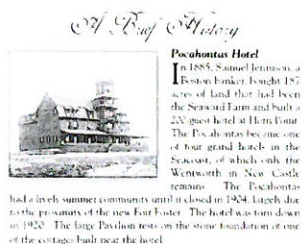
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Executive Summary

Fort Foster Park

Fort Foster is one of the community's most significant waterfront properties. As its name suggests, the facility once served as a military installation offering protection to the mouth of the Piscataqua River, Portsmouth Harbor and the Portsmouth Naval Shipyard. While initial planning for a fort to provide coastal defense at the mouth of the estuary was planned in the 1870's, the fort was constructed starting in 1899, following the Spanish American War. Additional modifications and addition of batteries continued into the Second World War, and remnants of many of the structures remain to this day. The Park consists of approximately 89 acres of mixed terrain with extensive shoreline, varying from gravelly beaches to ledges and rocky promontories. The facility offers parking and public restrooms, as well as a pier, and has 2 pavilions that can be reserved for functions and events. One is for up to 100 people. The facility is open primarily during the summer months and is overseen by the Parks Commission, Community Center Staff, and Public Works Department. The facility is a key recreational amenity for the community.



From Fort to Park

In the early 1980s, the Federal government offered the Fort to the Town of Kittery. Some in town wanted to see the property developed for housing, but an active group of conservation-minded citizens worked tirelessly for years to convince residents that Fort Foster would better serve the community and future generations as a park. In 1981 the Fort was deeded to the Town for public use. Today Fort Foster is visited by thousands of people every summer who come to enjoy its many amenities and unparalleled views of the Piscataqua River, Whiteback Lighthouse, Wood Island Lighthouse Station, and the Isles of Shoals. Please enjoy Fort Foster but

Take only memories, leave only footprints.

Park Regulations

- Dogs must be leashed at all times and are restricted from the beach east of the pier. Please pick up after your dog.
- Carry in - Carry out. Please do not leave any garbage behind.
- No alcoholic beverages within the Park.
- Fires only in grills or pits.
- No swimming or diving from pier.
- No hunting or firearms.
- No motorized watercraft, four-wheelers or dirt bikes.
- Kayaks, canoes and sailboards may be launched only from Fort Point Beach.
- Big and Small Pavilions may be reserved for private parties: Big Pavilion - 100 People, Small Pavilion - 35 people.

Phone Numbers

Fort Foster is managed by the Department of Public Works. Long range planning is directed by the Kittery Parks Commission, and Pavilion use is overseen by the Recreation Department.

Gatehouse - 439-2182
DPW Office - 439-0133
Pavilion Reservations - 439-3800



Thank you for visiting one of the jewels of the Seacoast. Fort Foster is a 94-acre park owned by the Town of Kittery, which welcomes everyone to enjoy its beaches, trails, views and historic sites. The Park's amenities include a playground, restroom facilities, pavilions for events, picnic and barbecue areas, and designated areas for windsurfing and kiting.

Season

The Park is open from Memorial Day to Labor Day, and weekends in May and September.

Hours

10:00 am to 8:00 pm or dusk, whichever comes first. The gate is locked upon closing.

Fees

Residents can purchase season passes at the Town Office for \$20.00.

Non-residents - \$10.00 per vehicle or to walk in \$5.00 per adult and \$1.00 per child. Non-resident season passes are \$50.00 and available at the gate or Town Office.

Comment [DRJ1]: Update with new brochure after digital copy is produced

Figure 1: Fort Foster Brochure

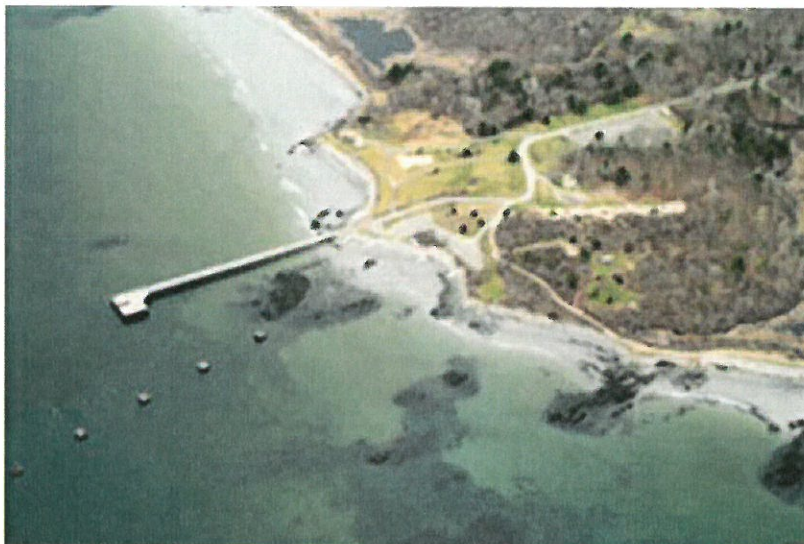


Figure 2: Aerial Image of Fort Foster – Pier in Foreground

Preface

The Kittery Parks Commission is responsible for preparing an overall *Park Management Plan* for the identification, protection, development or use of park lands and facilities (see Town Ordinance No. 4.10.2).

Kittery Parks Commission

The Kittery Parks Commission was created when it was evident Kittery Public Works needed support in policy making decisions for town Parks. The Parks Commission serves in an advisory role to the Town Council and Town Manager for developing town park policies for Fort Foster

Prior to their implementation, The Parks Commission should be consulted on all town park policy making decisions. The Parks Commission makes recommendations to the Town Council and Public Works implements decisions and is in charge of all town personnel involved.

The Parks Commission will have continued communication with Kittery Public Works, Conservation Commission, Police Department, and the Kittery Land Trust when appropriate.

Mission

Fort Foster, Kittery's largest park and recreational area, is rich in both natural and cultural resources that are important to the citizens of Kittery. The Park is to be managed in perpetuity in a manner that preserves the natural environment while allowing residents and park visitors the opportunity to enjoy the resources found

in the park.

It is the intent of the Kittery Parks Commission to strive to adhere to this mission statement while implementing this management plan.

5 Year Goals (2015-2020)

Specific goals of this 5-year management plan include:

1. Continue the efficient implementation of this management plan.
2. Continue communication and coordination with the Town Manager, Commissioner of Public Works, and Conservation Commission.
3. Continue to evaluate Park user fees and operating costs to determine if the existing fee structure is adequate to ensure that Park operations are revenue neutral or revenue positive.
4. Make contact with the State Historic Preservation Officer concerning the fortifications and the potential for pre-historic artifacts. Section VIII,4
5. Successfully fund and complete the capital improvement projects identified in Section VIII.
6. Continue to monitor use of the Park and report on trends in use patterns with regard to the Park's capacity and infrastructure.
7. Create Parks sign design standards that follow consistent use of typography and style based on the design manual and standards of our Town planner
8. Monitor Invasive Species

These may be periodically revised, as needed, by the Parks Commission.

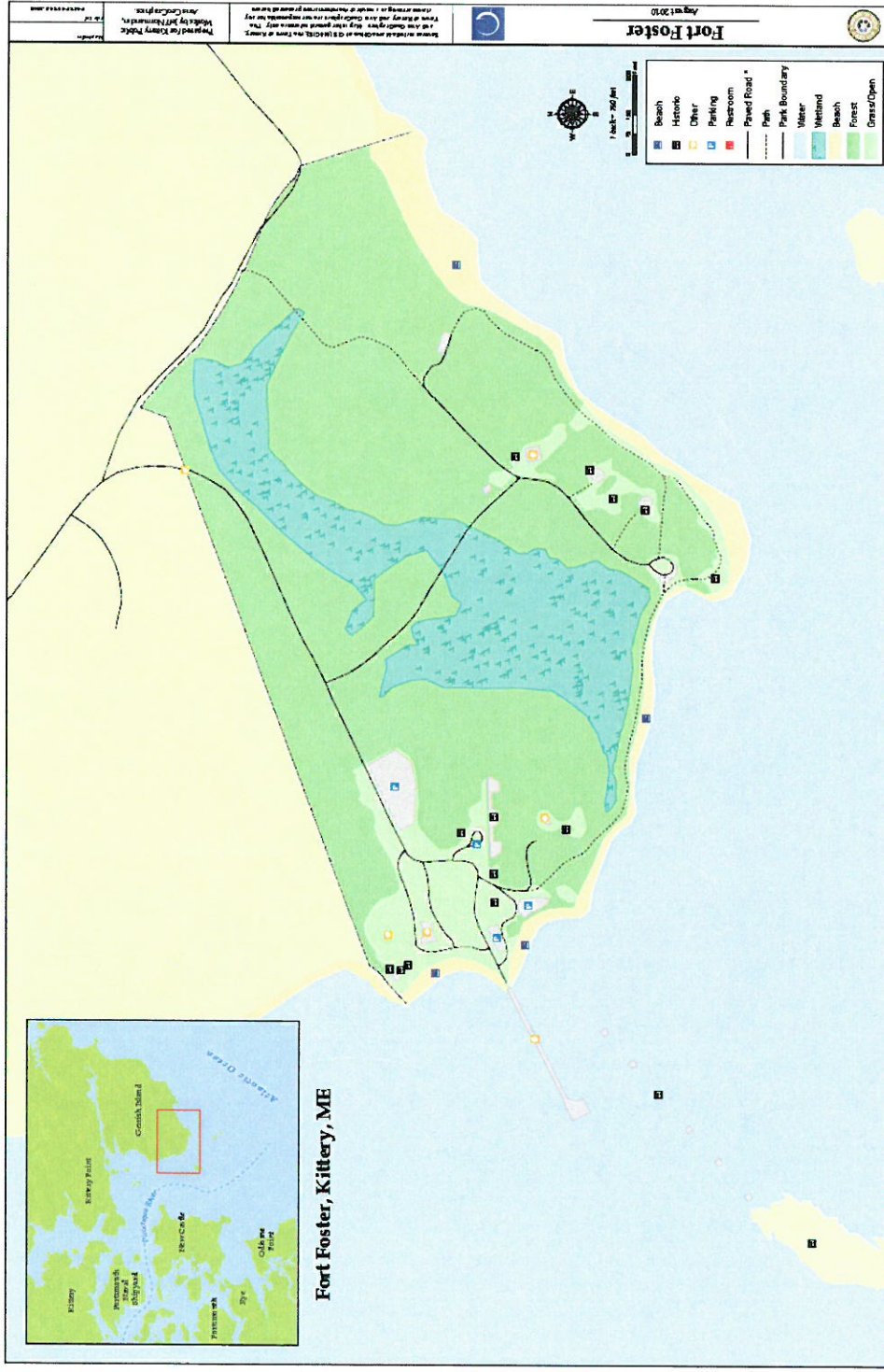


Figure 4: Fort Foster Map

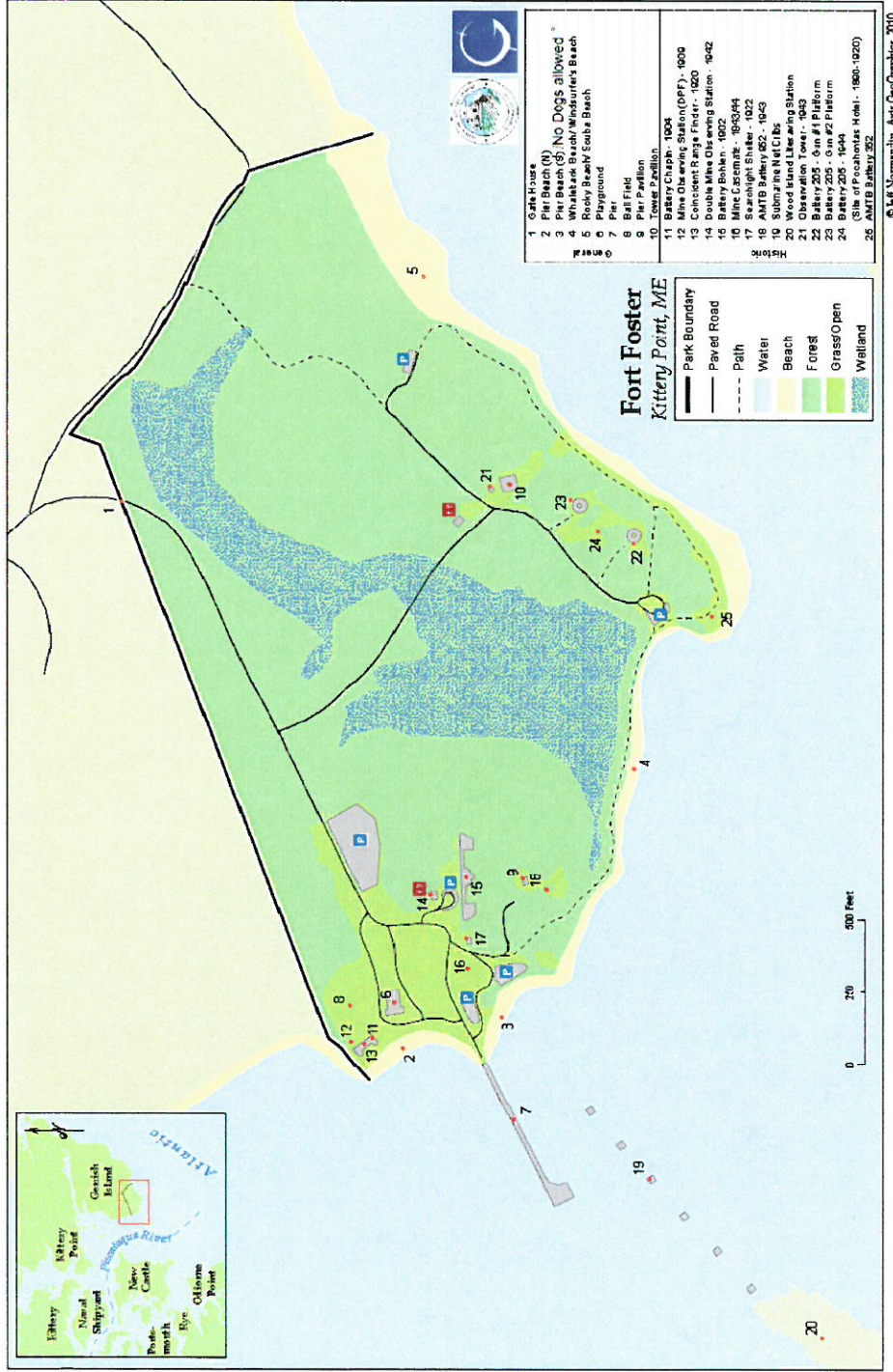
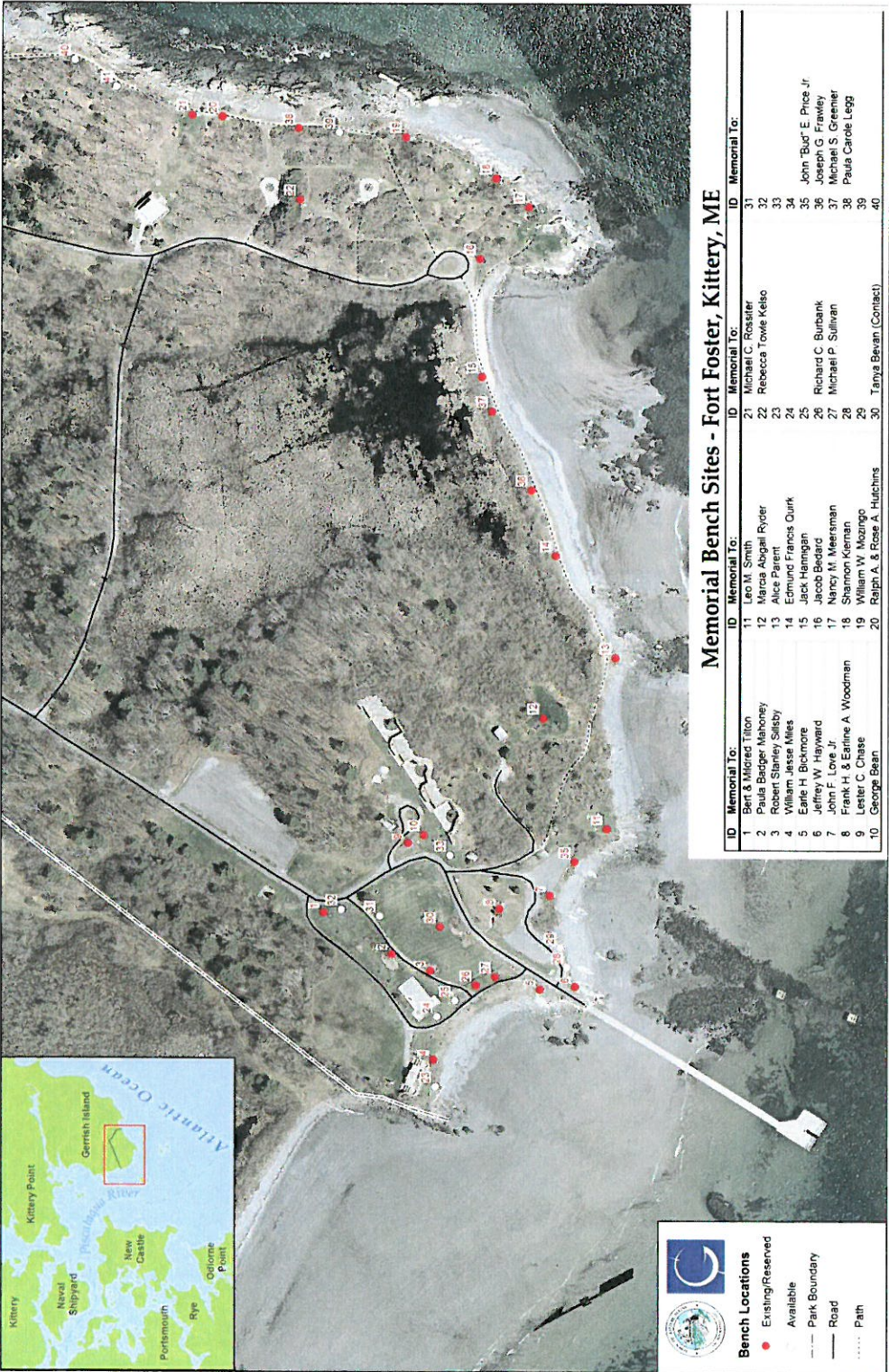


Figure 5: Fort Foster Facilities



Map produced by Jeff Normandin, Asis GeoGraphics for the Town of Kittery. © Jeff Normandin, Aug 2010. Revised Oct 2011.

Figure 6: Memorial Bench Sites at Fort Foster

Projects

Projects in progress are:

1. Landscape Playground (began 2014)
2. Hire additional full time employee to help manage rules/policies at FF (began 2013)
3. Historic plaques/signage for informational purposes (began 2011)
4. Develop and share a bike program (began 2012)
5. Improve gate house conditions for employee comfort/safety (began 2014)
6. Proposed general projects are:
7. Develop First Aid station/location consisting of basic first aid items along with items needed to assist an injured person until EMT arrives
8. Signage - Installation of Interpretive signage/ Updated signage for dog issues
9. Improve the structure of the Gate House
10. Develop School Orienteering program
11. Develop integration with Kittery school curriculum (wildlife/invasives/etc.)
12. Develop exercise/outdoor/activities station
13. Improve public access for recreational use, especially kayaks
14. Build a garage to house DPW equipment. The bunkers are moist and diminish shelf life of **vehicles** and supplies.
15. Put electricity at gate house (and at FF as a whole?). Provide ability for safety lights at gate house, security cameras, potential credit card machine, temperature control at gatehouse. Electricity at FF would provide hot water.

Completed projects are:

1. Construction of a new bathroom and changing room, which will meet ADA Accessibility Guidelines (2006)
2. Installation of dog-waste collection bag dispenser (2006)
3. Construction of a water level control structure for the emergent marsh (2004)
4. Raise Tower Pavilion road and replace culvert to prevent road flooding (2007)
5. Erosion control among certain portions of the shoreline
6. Relocate certain memorial benches (2008)
7. Replacement of facilities and the leach field for the Tower Pavilion bathroom (2009)
8. Add handicap ramp (200-250ft) to allow wheelchair access to the beach (2011)
9. Improve drainage by Fort and eliminate path by parking lot (2012)
10. Replacement of Playground's central features (2013)
11. Update record keeping and pass distribution process (2013)
12. Identify/Define/Protect Eastern Cottontail and endangered species. Section III,3 (2013)
13. Install additional speed bumps at park entrance (2014)
14. Repair pier from 2013 nor-easter (2014)

Finances

Fort Foster is meant to be self-sustaining from its own revenue stream. Revenue is directed to maintain operation first and foremost. Excess revenue is to be deposited in the Kittery town general fund. Excess revenue should be considered by the Town Council and Capital Improvement Committee when capital improvement projects are needed. Fort Foster operates as a cost center where any expenses and revenue related to Fort Foster are tracked by Public Works and the Kittery Finance Director. The Parks

Commission has authority to review these numbers at any time upon request.

Capital Improvement Projects

An annual amount of \$ should be included in the Capital Improvement Projects Budget

Additional Comments

A second priority has been set to hire an additional full time employee at Fort Foster. This will allow for patrolling of the park to educate patrons and enforce the park rules. While the authority to write tickets is ideal, the ability to call local law enforcement when needed is required. Park fees were increased in 2014 with the intent of budgeting the cost of this individual in 2015 Public Works Budget.

1. Introduction

This plan is intended to define how Fort Foster Park will be managed for the next five years. Included in this document is a description of Park administration procedures, an overview of the natural resources of the Park, and an evaluation of the Park's infrastructure. This plan is intended to serve as a "living document" for the Kittery Parks Commission, so it also includes sections on 5-year management goals, annual budgets, meeting minutes, and recommended capital improvement projects. At the end of five years, the Commission envisions revisiting the plan to determine if amendments are warranted and to establish new five-year goals.

1.1. Mission Statement

A mission statement is important for setting the direction for the management plan and related Park management activities. The following mission statement was drafted based on input from the public received from user surveys and a public meeting held in 2003.

Fort Foster, Kittery's largest park and recreational area, is rich in both natural and cultural resources that are important to the citizens of Kittery. The Park is to be managed in perpetuity in a manner that preserves the natural environment while allowing residents and park visitors the opportunity to enjoy the resources found in the park.

It is the intent of the Kittery Parks Commission to strive to adhere to this mission statement while implementing this management plan.

1.2. Plan Preparation

The Kittery Parks Commission (KPC or Commission) was tasked by the Town Council with developing management plans for Fort Foster. The management plan for Fort Foster was prepared with the assistance of Woodlot Alternatives, Inc., an environmental consulting company based in Topsham, Maine. A list of the current members of the Commission who worked on preparing this plan is provided in Appendix A.

Preparing the plan involved interviewing members of the Commission, Town employees, and the Town Manager. A public meeting was also conducted to receive input from citizens concerning management of the Park. In addition, a user survey was conducted during the summer of 2003.

1.3. Goals and Objectives

Following are the goals and objectives for managing the Park:

- Management activities or recreational uses should not diminish the natural or cultural resources of the Park.
- Wherever practicable, natural and cultural resources within the Park will be managed to benefit all Park visitors. If conflicting, natural resources have priority.
- To the degree that it is practicable, management of the Park will either be revenue positive or revenue neutral, with the primary source of revenues being user fees.
- Use of the Park will be affordable for all residents of the Town of Kittery.
- Wherever practicable or required by law, the Park will be made accessible to elderly and

- handicapped visitors.
- Permitted uses must be compatible with the desire to preserve the natural environment of the Park.
 - Capital improvements to the Park will be designed to be consistent with the coastal setting of the Park and/or they will complement the character of the remaining fortifications.
 - Long-term management planning intends to ensure that Fort Foster is forever maintained under public ownership as a natural and recreational resource for the citizens of Kittery and surrounding towns.
 - Maintain beach access for public use
 - Support clean beaches through partnership and guidance from Maine Healthy Beaches program for clean water testing
 - Maintain and enhance the current facilities and services to meet the needs of residents and visitors alike.

2. Park Administration

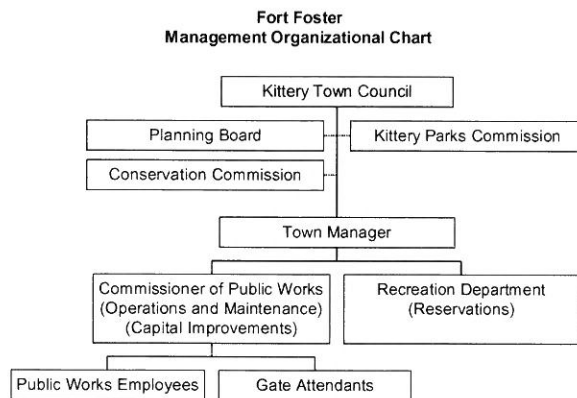
This section of the plan presents how the Park is administered and describes the interaction between the various Town departments and commissions. Although the Parks Commission prepared this plan, it must be implemented collaboratively by these entities within the Town's government.

2.1. Management Structure

Management of Fort Foster falls under the normal duties of the Town Manager, who in turn reports to the Town Council. As shown in the organizational chart below (solid lines), the Town Manager directly supervises the activities of the Commissioner of Public Works and the Community Center Staff with regards to their work at Fort Foster.

The Parks Commission serves in an advisory role to the Town Council and Town Manager for reviewing annual budgets, identifying capital improvement needs, developing Park rules, ensuring that capital improvements fit harmoniously into the landscape, and implementing and updating the management plan (see Town Ordinance 4.10).

The Conservation Commission also serves in an advisory capacity regarding management of the natural resources found within Fort Foster. The Commission may directly advise the Town Council or the Town Manager, or they may work collaboratively with the Parks Commission.



Reservations for the pavilions are accepted by the Town's Community Center Staff while the Public Works Department is responsible for hiring seasonal gate attendants, day-to-day operations, and maintenance. The Commissioner of Public Works also works with the Town Manager, using input from the Parks Commission to develop annual budgets and to propose capital improvement projects. The Parks Commission may consult with the Conservation Commission regarding proposed changes affecting Fort Foster.

2.2. Annual Budgeting

The Commissioner of Public Works is responsible for preparing a draft annual operating budget for submission to the Town Manager. The Parks Commission will review the budget for suggested changes and forward these to the Town Manager and the Town Council before submission to the Town Council for final approval. The draft budget should include:

- An itemized report on the previous year's income and expenses.
- A Proposed fee structure for the coming year.
- An estimate of expected income for the year.
- Estimated operations and maintenance costs.
- Estimated capital improvement costs.
- Requests for additional funds, if necessary, for capital improvement costs.

2.3. Operations and Maintenance

Annual Budget costs should include:

- Labor and benefits costs for Public Works employees for the portion of their work that involves the Park.
- Equipment costs (e.g., trucks, mowers) for Public Works employees for the portion of time that it is used at the Park.
- Labor costs for seasonal gate attendants.
- Materials for lawn and landscape care.
- Servicing on-site septic systems.
- Repair and replacement of picnic tables and benches.
- Repair and maintenance of coffer dam
- Materials for road maintenance.
- Materials for building repair and maintenance.
- Materials for repairing and maintaining the pier (i.e. decking/structure)

The Commissioner of Public Works provides an itemized accounting of O&M costs for the previous year and an estimate for the coming year for use in the annual budgeting process. The Commissioner of Public Works also provides the itemized accounting of income for the previous year along with an estimate of projected income for the coming year.

When reporting income, gate receipts should be itemized by:

Resident day use
Non-resident day use

- Resident season pass
- Resident duplicate season pass
- Non-resident season pass
- Non-resident duplicate season pass
- Pavilion rental
- Special event fees

The Parks Commission, with the approval of the Town Council, is responsible for soliciting and reporting other sources of incomes, such as outside grants (see Town Ordinance 4.10.3).

2.4. Capital Improvement Projects

Capital improvement projects may be funded by gate receipts, general town funds, or outside grants.

The Parks Commission is responsible for identifying capital improvement needs within each 5-year management plan, and the Town Manager is to be advised.

More detailed information concerning recommended capital improvement projects is included in Section 7 of this plan.

2.5. Fee Structure

The current fee schedule can be viewed in the Fort Foster Rules and Regulations (Appendix B)

2.6. Park Policies and Regulations

Park policies and regulations are posted on the Town's web site and they are available at the Municipal Office Building and the gatehouse during the Park's normal operating season. Current Park policies and regulations are found in Appendix B.

Comment [K2]: Make sure this is true

The Parks Commission is responsible for recommending revisions to Park policies and regulations on an annual basis, prior to the Park's opening, or as needed in response to specific conditions. Recommendations are to the Town Council after discussion with the Town Manager.

2.7. Policies Concerning Privately Funded Improvements

Privately funded improvements, including memorial benches, a Bird and Wildlife viewing ramp at the Horn Point rotary, and memorial trees will be considered by the Town Council upon application to the Parks Commission. The Commission will confer with the Town Manager and then make a recommendation to the Town Council regarding whether to accept the proposed improvement.

Privately funded improvements are subject to the following guidelines:

- a) Improvements must be funded in total by the applying party.
- b) Installation of the improvement will be conducted by the Public Works Department or by a contractor retained by the applying party supervised by Public Works. In the event that a private contractor is retained, the applying party must submit a proposed work plan and schedule for review and approval by the Parks Commission and the Commissioner of Public Works.

- c) The applying party is responsible for obtaining any local, state, or federal permits that may be required for the proposed improvements. Draft permit applications must be submitted for review and approval of the Parks Commission prior to their submission to the regulating authority.
- d) The applying party is responsible for the annual maintenance of the improvement unless the Town Council specifically indicates that the Town will accept the responsibility of maintaining the improvement. Failure to maintain the improvement may result in its removal by the Town.
- e) Memorial benches and other structures must be of a design that is acceptable to the Parks Commission.
- f) Memorial benches will be placed no closer than eight (8) feet to the top-of-slope of the shoreline, or as directed by the chairpersons of the Parks Commission.
- g) All plantings must be comprised of species of plants native to Maine.

2.8. Reservations

Reservations are accepted, by the Town's Community Center Staff for use of the Tower Pavilion and Pier Pavilion for special events such as family picnics and wedding receptions. Proposed uses must be compatible with existing Park policies and regulations (see Appendix B).

2.9. Reservation Procedures

The Community Center Director will first handle questions regarding the compatibility of proposed uses with Park policies and regulations. In the event that policies and regulations are not clear, the Parks Commission will consider the request and make a recommendation to the Town Manager, who will then make a decision concerning the proposed request. If appropriate, the Parks Commission will recommend modifications to the Park policies and regulations to address similar circumstances in the future.

2.10. Fee Structure

The fee structure for using the Tower Pavilion and the Pier Pavilion is presented in the Park policies and regulations (see Appendix B). The Parks Commission and the Town Manager will review the fee structure annually to determine if the levied fees provide adequate compensation for the work performed by Town employees in conjunction with the events.

2.11. Special Events

The Park may also be used for special events such as the annual Isles of Shoals Race, scout camporees, special Town or School uses, or other activities upon approval of the Town Council. Application for special events should be made through the Community Center Staff and Community Center Director will then forward the request to the Town Manager. The Town Manager should request the recommendations of the Parks Commission, Community Center Staff, Public Works Department, and may wish to include input from others, i.e. Police and Fire Departments. The Town Manager's report or recommendation will be submitted to the Town Council for their consideration and determinations. (amended 6/27/05)

Fees may be charged for special events to cover the costs of Town employees providing services in association with the event (e.g., opening a gate early). The Commissioner of Public Works will

estimate the costs associated with the event and forward these to the Town Manager (with a copy to the Parks Commission) for inclusion with the Commission's recommendation concerning the event. The Town Manager will then issue a decision in writing to the applying group.

All special events must be compatible with the mission of the Park.

2.12. Management Plan Implementation and Revision

The Parks Commission is responsible for advising the Town Council and Town Manager about the current management plan and for periodically revising it, as necessary. The plan will be revised, at a minimum, every five years. Revised plans will be developed in association with the Town Manager. A draft of the plan will be reviewed by the Town Manager, prior to the Parks Commission submitting it to the Town Council for review and approval.

2.13. Monitoring and Reporting

The Commissioner of Public Works is responsible for management of the Park personnel and providing periodic reports to the Town Manager. The Commission will meet with the Town Manager at least twice a year to monitor and discuss the 5-Year Management Plan and park rules and regulations.

The Parks Commission will also hold periodic meetings with the Town Manager to discuss Park management.

2.14. Annual Administrative Calendar

The annual administrative calendar for implementing the management plan is:

January 1 – April 15	Reservation requests accepted from Kittery groups for Tower Pavilion and Pier Pavilion on a first-come, first-serve basis
April 16 – September 23	Reservation requests accepted from any group for the Tower Pavilion and Pier Pavilion on a first-come, first serve basis
Last Monday of April	Parks Commission and Town Manager walk through Park to determine maintenance and clean up needs.
May	Parks Commission give progress report to Town Council
Memorial Day to Labor Day	Park open on weekdays and weekends from 10:00 am to 8 pm or sunset, whichever is earlier
September after Labor Day	Park open on weekends from 10:00am to 8pm or sunset, whichever is earlier.
Last Monday of September	Parks Commissioners walk through Park to determine maintenance and capital improvement needs
November	Parks Commission give progress report to Town Council
December 31st	Parks Commission communicates cost estimates for proposed capital improvement projects for submission to Town Manager.

3. Natural Resources of the Park

Fort Foster was once cleared of vegetation as the land was used for a variety of purposes, including use of the area as a fort. The resulting forest, therefore, is a mix of pine, oak, and other species that re-colonized the site after it was abandoned from its other uses. These forests provide valuable wildlife habitat, but they do not have high value for forest products due to their unmanaged condition. At this time it is the Town's policy to not manage the forests found in Fort Foster Park for commercial purposes.

The Park also encompasses a wide variety of other natural resources, including marine habitats, freshwater wetlands, wildlife habitat, habitat for rare plants, and areas used for outdoor recreation.

Over the years invasive plant species have spread dramatically throughout the park and have greatly threatened its biodiversity. These invading plants out-compete our native species by hogging sunlight, nutrients, and space. They change animal habitat by eliminating native foods, altering cover, and destroying nesting opportunities. Invasive plants are a direct threat to what is of great value at Fort Foster and their aggressive growth threatens our recreational experiences. Many species can form thorny, impenetrable thickets in forests impacting access. Others can choke water-ways limiting their health, beauty and use. Invaders can also greatly affect forest regeneration. These species have already begun to mar the natural beauty of our regionally distinctive landscape with the loss of many of the native juniper bushes along the shoreline (most of which have been killed by bittersweet vines).

Comment [K3]: Exception needed to treat identified invasive species within the shore land zone

3.1. Marine Resources

Fort Foster includes several thousand feet of ocean shoreline that encompass habitats that range from shallow sandy beaches to steep, rocky zones. A cobble beach is also found at the area known as "Scuba Diving Beach." These shoreline habitats, in association with near-shore waters and the nearby islands and ledges, provide valuable habitats for fish, shellfish, marine mammals, and seabirds

At the present time there is a management concern about conservation of the marine resources in, and adjacent to, the Park (i.e. illegal collection of crustaceans by Park visitors).

Of minor concern are areas of bank erosion associated with walking trails and memorial benches that are near the top of the slope leading to the ocean. These areas should be monitored annually and ultimately repaired (see Section VIII, Capital Improvement Projects).

3.2. Wetlands

Fort Foster also encompasses a large freshwater wetland complex that runs generally north to south through the Park. The marsh at the southerly end of the Park is particularly valuable to nesting birds, but the entire wetland complex is valuable to a wide variety of wildlife species. Existing forested buffers should be retained adjacent to these mapped wetlands.

Vernal pools are important areas for breeding amphibians such as frogs and salamanders, and freshwater shrimp. Two vernal pools occur near the entrance gate to the Park, and others may exist in forested areas. Any vernal pool within the Park is to be left in an undisturbed state. Within 250 feet of the vernal pool, no trees should be cut and no pesticides should be applied.

The water level in the marsh is controlled by a culvert that passes under a berm adjacent to the ocean at the south end of the Park

For wildlife management purposes, water levels should be monitored/controlled by the cofferdam that would allow water levels to be manipulated and the marsh to be periodically drained. Continued modifications of the cofferdam are needed regularly.

3.3. Wildlife

Wildlife within the Park (i.e., excluding marine wildlife) includes a range of upland and wetland species such as white-tailed deer, fox, mink, raccoon, skunk, songbirds, owls, woodpeckers, hawks, turtles, frogs, and salamanders. Citizens also noted that large numbers of monarch butterflies stop over in the Park during migration.

An inventory of the species inhabiting the Park, however, has not been completed and wildlife populations are not monitored. The management goal for the Park's wildlife is to maintain the existing habitats and to cooperate with natural resource management agencies whenever possible. The Maine Natural Areas Program (MNAP), for example, has defined the Greater Brave Boat Harbor/Gerrish Island area as a conservation focus area (see Appendix E). This area is immediately adjacent to Fort Foster, and a goal of this management plan is to approach the MNAP to determine if 1) they have the resources to conduct an ecological inventory of Fort Foster, and 2) to determine if management of the Park is compatible with goals established for the Greater Brave Boat Harbor/Gerrish Island Focus Area. The Parks Commission will initiate this contact.

3.4. Rare, Threatened, and Endangered Plants and Animals

Several species of rare, threatened, or endangered species are known to occur or potentially occur in the Greater Brave Boat Harbor/Gerrish Island Focus Area. Recent surveys, however, have not been conducted in Fort Foster.

As part of this management plan, a botanist conducted an inventory of the parts of the Park that are typically used by visitors to determine if any rare plants were present and to evaluate if there were any management concerns. Two rare plants—White Wood Aster (*Aster divaricatus*) and Sea-beach Sedge (*Carex silicea*)—and New England Cottontail Rabbit (*Sylvilagus transitionalis*) were found during this survey. White Wood Aster is a state-listed threatened species found in dry woods and clearings. Within Fort Foster it is found adjacent to the Park entrance road and along a woods road near the Scuba Diving Beach Development should be avoided in these areas, but current mowing practices can continue. The New England Cottontail is a state listed endangered species. Before the brush in these areas is disturbed, Maine's New England cottontail restoration coordinator, should be contacted, currently Kelly Boland with Fish Wildlife Services.

Sea-beach Sedge is a small plant with Special Concern status at the State level that grows on sandy beaches and rocky shores. It is found in several places within Fort Foster. At the present time, there are no known management concerns associated with this species.

3.5. Invasive Plant Species

Comment [K4]: Review with Mike Morrison and make sure solutions are included

While the northern-most section of the park (closest to the entrance gate) remains the most healthy, the majority of the park has an ever-increasing number of invasive species including:

Garlic Mustard (Alliaria petiolata),

Garlic Mustard

(*Alliaria petiolata*)

- Biennial
- Grows in shade or sun
- Forms monocultures
- Up to 12 year seed bank
- Pull entire plant when in flower
- May soon have biological control



Common and Glossy Buckthorn (Rhamnus cathartica and Frangula alnus),

Buckthorn

Frangula alnus

- Dense stands shade out under story and prevent native seedlings from growing
- Causes diarrhea in birds that jeopardize migration
- Large root systems make eradication difficult



Asiatic/Oriental bittersweet (Celastrus orbiculata),

Asian Bittersweet

(Celastrus orbiculatus)

- Woody stem vine
- Climbing on and covering trees and shrubs
- Can grow up to 60 ft.
- Seed spread by birds

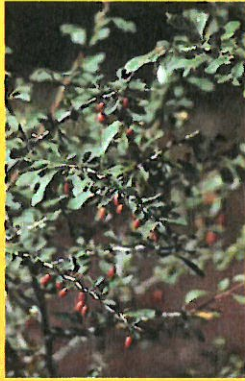


Japanese Barberry (Berberis thunbergii)

Barberry

Berberis thunbergii, *B. vulgaris*

- Invades woodlands
- Deer avoid thorns and over browse native plants
- Toxic bark
- More attractive to pollinators
- Still available in nurseries



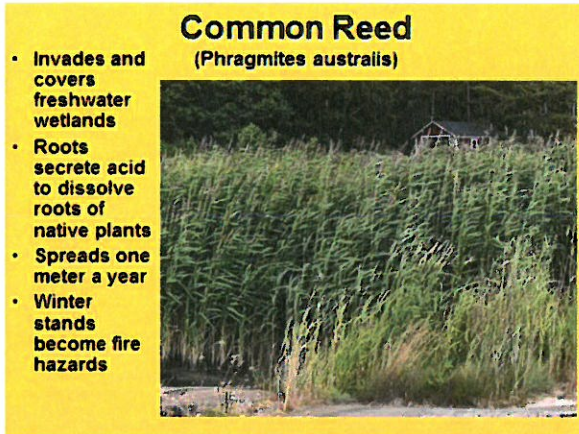
Japanese Bamboo/Knotweed (Fallopia japonica)

Japanese Knotweed (*Polygonum cuspidatum*)

- Spreads by plant fragments or seeds
- Forms dense thickets
- More root mass than stem and leaf mass
- Spreads rapidly
- Hard to control



Phragmites/Common Reed (Phragmites australis)



Japanese Honeysuckle (Lonicera japonica),



and Blackswallow-wort (Vincetoxicum nigrum)

Pictures and information taken from Maine Association of Conservation Commissions website and US Department of Agriculture website

Comment [DRJ5]: Add picture

In the spring of 2006 the largest stand of Asiatic bittersweet in the park was mechanically removed thanks to a donation by Mike Morrison of Swamp Fixer, Inc. Within one short season, the bunker where the vines were extracted and the surrounding areas, showed signs of great improvement with the growth of a multitude of native and non-native (but non invasive) species covering those areas. And while some of the removed invasives continue to resprout, it is now possible to maintain their aggressive regeneration by hand cutting and manually pulling. Furthermore, an enormous seed bank was removed which will help slow the spread of this

aggressive invader.

The Town Manager, Parks Commission, and Commissioner of Public Works are in communication with Invasive Plant Coordinator at the Rachel Carson National Wildlife Refuge to map the location of invasive species within the Fort boundaries. A maintenance plan needs to be established by the Town Manager, Parks Commission, and Commissioner of Public Works. The plan will submitted to the Town Council for approval and primarily executed by the Commissioner of Public Works. The Maine State Wildlife... will be consulted when state invasive species are being treated. Help establishing a maintenance and volunteer program will start with Invasive Plant Coordinator at the Rachel Carson National Wildlife Refuge, the York County Soil & Water Conservation District, and the the USDA website: <http://www.invasivespeciesinfo.gov/toolkit/detspot.shtml>

Comment [DRJ6]: Include as appendix

Comment [DRJ7]: Include as appendix

Comment [DRJ8]: Any maintenance needs to be run by the Maine guy ...

Comment [DRJ9]: Full name

3.6. Outdoor Recreation

The Park is situated in an area that provides outstanding opportunities for outdoor recreation, including fishing, sea-kayaking, bird watching, swimming, SCUBA diving and snorkeling. Current Park policy is to separate potentially incompatible uses by directing activities to specific areas of the Park. The Parks Commission will periodically monitor these activities to ensure that this policy is still appropriate. *The currently designated Scuba Beach is included as a day only destination location in the Maine Island Trail Association www.mita.org*

4. Infrastructure

4.1. Fortifications

The historical significance of the remaining fortifications is discussed in a report by Joel Eastman entitled, *The Modern Defenses of the Coast of Maine*. Maine's State Historic Preservation Officer, Earle G. Shettleworth, Jr., also recently determined that the fortifications are potentially eligible for inclusion on the National Register of Historic Places. Mr. Shettleworth also notes that Fort Foster is likely to contain pre-historic artifacts.

The Town is not required to conduct studies of the fortifications or to search for pre-historic artifacts unless federal agencies, funds, or licenses are involved in the project. Such studies may also be required if a Maine Site Location of Development permit is ever required for improvements to the Park.

To learn more about the potential significance of the fortifications, as well as to gain a better understanding of the potential for pre-historic artifacts, members of the Parks Commission may arrange to meet with Mr. Shettleworth.

4.2 Pier

The Fort Foster pier sits on its original foot print and design. The pier is a total of 553ft long and consists of two sections. The "leg" is a walkway that is 483ft x 14ft and the "foot" is 86ft x 70ft. The pier is open to pedestrians and primarily used for sight seeing and recreational fishing. The pier was built at the time of the fort structures. It was used to offload military equipment that would arrive via boat. A focus to keep the pier open to pedestrian use makes management more reasonable. The Commissioner of Public Works includes an annual budget for lumber with an expectation to replace ~5% of the decking and railings each spring. Although unique in its nature, per review of the Town Manager, the pier is not part of a historical registry and there is no interest in having it researched further or included in a historical registry at this time. The majority of the pier has been repaired over the last century, but the cleats, where ships would tie up their dock lines, are part of the original pier. In February of 2013 a nor'easter damaged the pier and it was closed for 2 seasons. During that time the Parks Commission, Commissioner of Public Works, Town Manager, and FEMA representatives discussed the pier at length and notable points are: the pier should remain open to pedestrians, but is not necessary to hold vehicles beyond DPW equipment and the design of the pier should not be changed. The Parks Commission has also voted: if future design changes are proposed they should not include access for recreational/commercial boats. A survey was done by Wright Pierce.

Comment [DRJ10]: Add new appendix

4.2. Roads and Culverts

Roads in the Park are in generally good condition. It is the responsibility of the Commissioner of Public Works to periodically examine the roads and make recommendations during the annual budgeting process for funds for maintenance activities or to identify capital improvement needs.

The road to the Tower Pavilion occasionally floods when water levels in the marsh are high. Given that it is a priority to raise the water level in the marsh (see Section III, Natural Resources, and Section VIII, Capital Improvements), this road, the marsh, and the water control structure for the marsh should be surveyed to determine relevant elevations.

If it appears that the road would flood more frequently if water levels in the marsh were raised, then plans should be developed for raising the Tower Pavilion Road. If this were to occur, the culvert under the road should be designed to provide for a free exchange of water as well as passage for reptiles and amphibians.

4.3. Parking Areas

The large parking lot is in good condition, although some residents have asked that it be made more attractive and user friendly. The Commission, in association with the Commissioner of Public Works, will consider the need for a landscaping plan for this parking lot.

4.4. Bathrooms and Septic Systems

The Parks Commission is committed to replacing or upgrading the primary bathroom near the picnic area and shoreline (see Section VIII, Capital Improvement Projects). The Commission has sought, and received, assistance from the National Park Service for this effort. The condition of this bathroom was a concern expressed by several members of the public in 2003 (see Appendix C and Appendix D).

The Commissioner of Public Works is responsible for overseeing the maintenance of on-site septic systems.

4.5. Pavilions

The pavilions are currently in adequate condition. The Commissioner of Public Works will periodically inspect these structures to ensure that they are safe and serviceable. The Commission will also inspect these facilities during the spring and fall site inspections (see Section 2.12, Annual Administrative Calendar).

4.6. Picnic Tables

Picnic tables will be maintained by the Public Works Department under the direction of the Commissioner of Public Works. (The Parks Commission will work with the Commissioner, through the Town Manager, to periodically monitor table use to ensure that there are an appropriate number of tables.)

After a 2013 refurbishment and redesign the playground is currently in good condition. The Commissioner of Public Works will periodically inspect these structures to ensure that they are safe and serviceable. The Commission will also inspect these facilities during the spring and fall site inspections (see Section 2.14, Annual Administrative Calendar).

4.7. Dogs

Dogs must be kept on a leash at all times. Owners will be asked to leave the park if their dog is not under control. (9/3/97)

A "pooper scooper" rule is in effect for dogs. Owners must take their dog waste with them when they leave the park. (6/9/97), (9/3/97)

Comment [rjd11]: Help is needed with additional verbiage

Dogs are prohibited from Pier Beach east of the Pier for approximately 400 feet, or as designated by signs. (8/23/04)

Various issues concerning dogs in the Park (i.e. dog waste disposal and possible fees) will be addressed in the near future.

Ideas to enhance public knowledge and comply with the rules are:

1. Update Signage
 - a. "Under Control" at all times
 - b. Leash is required during park hours
 - c. Dogs are allowed off leash when park is closed
 - d. Baby beach – no dogs
 - e. Pick up dog waste at all times
 - f. Dog waste in winter months and when the Park is closed
2. Delegating a manager/ enforcer of Park rules, specifically related to, but not limited to dogs.
3. Additional patrol and rule enforcement around the grounds. The Parks Commission will explore instituting a dog pass with proceeds dedicated to additional enforcement costs

5. Finances

Furnished upon request from the Finance Director

6. Meeting Minutes

To be posted on town website

7. Capital Improvements

The Capital Improvement Project Committee allocates funds annually under the following three categories. Capital Improvement Projects as defined by buildings, equipment, or projects having a cost of over \$25,000 and a useful life of over 5 years. Capital Holdings, as defined by use for replacement of assets having a cost greater than \$25,000 and a useful life over 5 years; Capital Reserves, as defined as intentions for future demand for maintenance, repair, rehab of fixed assets that cost between \$5-25,000 and have a useful life of less than 5 years.

The following Capital improvement projects are proposed in the current 5-year management plan.

Proposed capital improvement projects (in order by priority) are:

- 1. Future repair/replacement of pier*

For each project, the Parks Commission will work with the Town Manager and the Commissioner of Public Works to determine:

- The scope of the problem that is being addressed by the capital improvement project
- Additional data needs (e.g., a topographic survey)
- A cost estimate for design and construction
- Potential sources of funds
- An implementation schedule
- Commission members who will take the lead on developing the capital improvement project

Information concerning currently proposed capital improvement projects is found in the following pages.

7.1.1. Future Replacement of Pier

Problem Statement

The pier is an important public structure and unique to Fort Foster and the area. Future extensive repair will be needed to keep the existing structure in existence and open to pedestrian use.

Additional Data Needs

- Cost of structure

Cost Estimate for Design and Construction

- To Be Determined
- *Potential Sources of Funds Capital Improvement Funds*

Implementation Schedule

Commission Members Involved

- Page Mead Co-Chair
- Rich DeMarco Co-Chair

Appendix A Kittery Parks Commission Members

*DeMarco, Kristina
10 Tudor Dr
Kittery, ME 03904
Tel. 439-5393*

*DeMarco Jr., Richard (Co-Chair)
10 Tudor Dr
Kittery, ME 03904
Tel. 439-5393*

*Hepner, Maury
67 Chauncey Creek Rd
Kittery Point, ME 03905
Tel. 439-3911*

*Hibschman, Tom
188 Brave Boat Harbor Rd.
Kittery Point, ME 03905
Tel. 439-6721*

*Payne, Denise
Pocahontas Rd
Kittery Point, ME 03905*

Comment [K12]: Phone and address needed

*Turner, Gale
5 Devon Woods Dr
Kittery, ME 03904
Tel. 439-0550*

*Mead, Page (Co-Chair)
P.O. Box 157
24 Gerrish Island Lane
Kittery Point, Maine 03905
Tel. 439-0638*

*Morrison, Michael (non-voting member)
21 Oak Ter
Kittery, ME 03904
Tel. 603-231-1271*

Appendix B – Fort Foster Park Policies and Regulations

() Indicates when policy/regulation went into effect.

A. SCHEDULED HOURS OF OPERATION

1. Gate attendants will open the park on weekends in May before Memorial Day and September after Labor Day from 10:00 am to 8:00 pm or sunset, whichever is earlier. (9/3/97)
2. The park will be open from 10:00 am to 8:00 pm, seven days a week from Memorial Day to Labor Day. (9/3/97)
3. There shall be no persons permitted except for authorized personnel within the park from sunset to sunrise. (9/3/97)
4. Pedestrian/foot traffic will be allowed from sunrise to sunset from October 1 to April 30 and weekdays in May before Memorial Day and in September after Labor Day. During these off season times the park is closed to unauthorized vehicular traffic including motorcycles, snowmobiles and all terrain vehicles. (11/25/85), (9/3/97)

Comment [K13]: Shore and harbor plan articulates public opinion to extend access during periods in the spring and fall. Ask Wright Pierce what is meant by this (weekdays in May/Sept or stay open in April/Oct)

B. GENERAL REGULATIONS

1. The vehicular speed limit within the confines of the park is 5 mph. (9/3/97)
2. Littering is prohibited as provided by Chapter 8, section 8.04.07 of the Kittery Town Code and users of the park must take their trash with them when they leave the park (5/29/91), (9/3/97)
3. Fires are permitted only in grills or pits designed for cooking uses. (6/9/97), (9/3/97)
4. Consumption of alcoholic beverages is prohibited by State statute. (prior to '81)
5. Vehicles are permitted only on access roads and must park in designated parking areas. (9/3/97)
6. The Kittery Park Division and its employees are not responsible for lost or stolen property. (9/3/97)
7. Lifeguards are not provided and due to strong tidal currents, there is no swimming or diving allowed from the pier.
8. Non-motorized, windsurfers, sea kayaks and canoes are to be launched only from the area referred to as "Windsurfer's Beach." Such water craft may be brought in on car-tops or trailers. If trailers are used, the trailer must be parked in the Upper Parking Lot after the visitor has dropped off their watercraft at Windsurfer's Beach. Commercial tours involving non-motorized watercraft (e.g., sea kayak tours) are not allowed to launch within Fort Foster. (amended 8/23/04)
9. Dogs must be kept on a leash at all times. Owners will be asked to leave the park if their dog is not under control. (9/3/97)
10. A "pooper scooper" rule is in effect for dogs. Owners must take their dog waste with them when they leave the park. (6/9/97), (9/3/97)
11. Dogs are prohibited from Pier Beach east of the pier for approximately 400 feet, or as designated by signs. (amended 8/23/04)
12. Removal or destruction of any buildings, facilities, flora, or fauna is not permitted in order to preserve the environmental integrity of the park. (9/3/97)
13. No hunting and no firearms allowed in the park. (prior to '81)
14. Scuba diving is restricted to areas not within the main beach area, i.e. restricted to areas outside the main beach and signs will be erected on either side of the main beach stating that

Comment [K14]: Do the reasons still exist to keep this rule? Opportunity to increase park revenue?

Comment [RJD15]: What is the definition of under control. Should it be included here?

Comment [RJD16]: Are there signs?

no scuba diving is allowed between these points. (6/16/83)

15. Early entry into the park for the purpose of reserving a table is not permitted. (9/3/97)
16. Commercial activities, such as selling merchandise and providing guided tours or instructional courses where participants pay a fee for the services, are prohibited from the Park without prior approval of the Town Council. (amended 8/23/04)

Comment [K17]: Should this be eliminated as an option to increase park revenue

C. SEASON PERMIT FEES (9/3/97)

1. Persons meeting Town residency requirements or property owners, except organizations and corporations, are entitled to a season permit for \$20.00 issued to them and their immediate family which means an individual, husband and/or wife and their blood relations that are residing in the same household. This includes a ward, foster child, or stepchild. (9/3/97) (amended 9/26/05)
2. Kittery resident senior citizens (persons 62 years of age or older) may obtain one season permit for their own vehicle at a charge of \$5.00. (5/29/91), (9/3/97), (12/20/99)
3. Those persons not qualifying under No. 1 above may obtain at the Kittery Municipal Building or Fort Foster gate a season permit for \$50.00 per year. (9/3/97), (12/20/99) (amended 9/26/05), (amended 1/28/08)
4. A charge of \$5.00 shall be made for a duplicate resident or resident senior citizen (62 years of age or older) vehicle sticker. (4/2/84) Receipt of original permit purchase required.
5. When an individual or family member goes to the Kittery Municipal Building to purchase a Fort Foster season permit, they must present the registration for the vehicle to which the sticker is to be attached. Pass cards may be issued at .50 each to any member of the immediate family with their full name and sticker number on that card. This pass allows entry only for the individual owner of the card. Vehicles may not enter the park using a pass card. (9/3/97) (amended 9/26/05)
6. One and only one day pass may be used for credit towards the purchase of a resident or resident senior citizen (62 years of age or older) season permit. Amounts exceeding the cost of the permit will not be refunded and may not be applied towards purchase of duplicates (9/3/97)
7. All vehicle season stickers must be affixed no higher than four (4) inches from the bottom line of the driver's side of the windshield. (9/3/97) (amended 9/26/05)
8. Vehicles with a capacity of more than 15 passengers can not obtain a season permit and must pay the regular day pass rates. (9/3/97)

Comment [DRJ18]: 16 including driver

D. DAY-USE VISITOR PASS FEES

1. Motor Vehicle Day Pass -- \$10.00 (includes pass for vehicle and occupants); (12/20/99)
2. Bus Day Pass -- \$100.00; (4/24/00)
3. Student School Bus Day Pass with adult chaperone(s) -- \$50.00. 4/24/00)
4. Day-use visitor walk-ins or bike-ins shall pay \$5.00 per adult and \$1.00 per child under 12 years of age. (12/20/99) (4/24/00)

Comment [K19]: Add clarity to be 16 or less occupants, >16 is considered a bus

E. RESERVATION OF PAVILIONS

1. General
 - a. The maximum number permitted in any group is one hundred (100) people. (6/9/97), (9/3/97)
 - b. The pavilions are the only areas of the park which may be reserved for group use except

for special events made by application and approved by the Town Council. (amended 6/27/05)

- c. Reservations are limited to one group for the season.
- d. The pavilion may not be reserved on Seaside Festival Day. (9/3/97)
- e. All groups reserving the pavilion area must leave the area in as good condition as it was found or be prohibited from using the facility in the future.
- f. All trash must be removed by the group using the pavilion. Waste receptacles will not be provided by the Town. (5/29/91)
- g. All groups using the pavilion must leave the area by 7:00 pm. (5/29/91)
- 2. Reservation applications for the Tower Pavilion are accepted as follows: (5/29/91), (9/3/97)
 - a. Reservation forms are available from the Community Center Director, 200 Rogers Rd, Kittery, Maine 03904, phone 207-439-3800, and checks should be made payable to the Town of Kittery. Forms must be completed and payment made prior to finalizing the reservation date. (9/3/97)
 - b. January 1 – April 15. Reservations accepted from any Kittery group on a first come, first serve basis.
 - c. April 16 – September 23. Any group or non-profit organizations. (9/3/97)
 - d. Each group or organization must provide two (2) 2' x 2' signs saying:

Comment [rjd20]: change to Regatta Day

Comment [K21]: now to be done online? Should reservations be available during closed days (weekdays in May/Sept or winter months)

TOWER PAVILION
RESERVED TODAY
(NAME OF GROUP)

These signs should be posted by the group at the intersection of the Pier Road and the Pavilion Road and one at the Pavilion.

- 3. Tower Pavilion Reservation Fees: (5/12/86)
 - a. The reservation fee assures the group or organization that the pavilion will be reserved for their use. Payment of the pavilion fee does not include park entrance fee, which will be collected at the gate. (9/3/97)
 - b. Groups must pay the following fee rates: (6/9/97), (9/3/97)
 - 1. Small pavilion, group 35 or fewer people, \$50.00 (amended 9/26/05)
 - 2. Tower pavilion, group 50 or fewer people, \$100.00 (amended 9/26/05)
 - 3. Tower pavilion, group 51-100 people \$150.00 (amended 9/26/05)
 - 4. Cancellations will be charged a \$50.00 service fee. (6/3/97)
- 4. Pavilion Use by Kittery Non-Profit Organizations (9/3/97)
 - a. Kittery based civic, social, or non-profit organizations like scouts, fire department, Traip class reunions or church groups will be allowed into the park for one day per season fee of charges provided: (9/3/97)
 - (1.) The reservation is made for weekends in May or September and weekdays from Memorial Day through Labor Day; (9/3/97)
 - (2.) The head of the Kittery group or non-profit organization must submit a completed written application in order to reserve the pavilion and have free entrance to the park. The application must give the desired reservation date; alphabetized list of the names and number of people of the group; the individual responsible for the group; and be submitted at least 7 days prior to the anticipated

Comment [DRJ22]: update for 10% increase to \$55, \$110, \$165

- function date, otherwise gate fees will apply. (9/3/97)
- (3.) The Recreation Director will issue a written response and confirmation to the head of the organization. (9/3/97)
 - (4.) Traip Class Reunions must be celebrating their 10th, 20th, 25th, or 50th anniversary, or other anniversary years regular charges are required. (6/9/97)
 - (5.) Except for item 4.a. above, all appropriate fees shall be assessed. (9/3/97)

F. SPECIAL EVENTS

1. The Park may be used for special events such as the annual Isles of Shoals Race, scout camporees, special Town or School uses, or other activities upon approval of the Town Council. Application for special events should be made through the Recreation Department, and the Recreation Director will then forward the request to the Town Manager. The Town Manager should request the recommendations of the Parks commission, Recreation Department, Public Works Department, and may wish to include input from others, i.e., Police and Fire Departments. The Town Manager's report or recommendation will be submitted to the Town council for their consideration and determinations. (amended 6/27/05)
2. Fees may be charged for special events to cover the costs of Town employees providing services in association with the event (e.g., opening a gate early). The Commissioner of Public Works will estimate the costs associated with the event and forward these to the Town Manager (with a copy to the Parks Commission) for inclusion with the Commission's recommendation concerning the event. The Town Manager will then issue a decision in writing to the applying group. (amended 8/23/04)
3. All special events must be compatible with the mission of the Park (amended 8/23/04)

DEFINITIONS

Town residency requirements: Proof of residency can be satisfied by one or more of the following showing a Kittery address:

Maine driver's license
 State of Maine ID
 Maine vehicle registration
 Utility bill
 Piece of mail
 Personal check
 Rent or lease agreement
 Buyers order for a new home
 Being a registered voter in Kittery.

Season Permit: Includes a sticker, which allows entrance to Fort Foster for the current season, to be affixed to the windshield of your vehicle and includes a walk-in pass for each member of the immediate family identified as an individual, husband and/or wife and their blood relations who are residing in the same household, which includes a ward, foster child, or step child. (9/3/97)

Capital Improvement

Under Control

Approved as amended 6/9/97
Approved as amended 9/3/97
Approved as amended 12/20/99
Approved as amended 4/24/00
Approved as amended 5/29/02
Approved as amended 8/23/04
Approved as amended 6/27/05

Approved as amended 9/26/05
Approved as amended 1/28/08

Appendix C – 2003 User Survey Results

This appendix will be included until a new survey is taken

User surveys were distributed to visitors entering the Park in 2003. Approximately 360 survey forms were completed (see summary of results). Respondents came predominantly from the Kittery area and New Hampshire (see table), suggesting that visitors from within an approximately 20-mile radius primarily use the Park (i.e., many New Hampshire visitors were from the Portsmouth area).

LOCATION OF RESPONDENTS TO FORT FOSTER USER SURVEY

Location	Number of Visitors	Percent
Kittery and Kittery Point, Maine	155	43%
York, Maine	30	8%
Eliot, Maine	11	3%
Portland, Maine	11	3%
South Berwick, Maine	10	3%
Well, Maine	5	1%
New Hampshire	85	24%
Massachusetts	30	8%
Florida	5	1%
Vermont	5	1%
New York	3	1%
North Carolina	3	1%
Texas	2	1%
Missouri	2	1%
Michigan	2	1%
Minnesota	1	<1%
Australia	1	<1%
Total	361	100%

The vast majority of the respondents were either satisfied or very satisfied with the Park's amenities. Facilities that were not satisfactory to some respondents, in order of concern, included: 1) rest rooms, 2) the playground, 3) signage, and 4) access to the ocean.

Recommendations for improving the Park included: 1) paint the bathrooms, 2) pave a path to the bathrooms, 3) more handicapped accessible parking spaces, 4) make some portions of the beach off limits to dogs, 5) open earlier, 6) repair the playground, and 7) provided handicapped access to the beach.

Appendix D – Notes from 2003 Public Meeting Regarding Park Management

A public meeting was held on November 5th, 2003, to provide an opportunity for citizens to present their views on the management of Fort Foster Park. Approximately 20 members of the public attended for varying lengths of time. An overview of the concerns and opinions expressed by these members of the public follows.

Mission for the Park and Related Comments

- Primary function for Town owning Fort Foster is to protect its natural character
- Use by Town residents should be an over-riding concern
- Out-of-state visitor use is increasing; should this use be regulated, perhaps by charging higher fees for non-residents
- Should there be a limit on the total number of visitors per day
- Functions at the Pavilion should be a low priority in relation to day use by residents
- The Park shouldn't be seen as a source of revenue for the Town, but it should "pay its own way"

Desirable Features of the Park and Proposed Enhancements

- The Park has the potential to serve as an educational resource; it would help, though, to have signs explaining the significance of historical and ecological features; others suggested that a handout be available to describe the ecological features of the Park
- Some citizens expressed an interest in a self-guided nature walk
- Some citizens expressed an interest in a viewing platform overlooking the marsh; others, however, were opposed to this suggestion
- A suggestion was made to create a dog walking loop beginning near the entrance to the Park
- One citizen noted that substantial numbers of monarch butterflies roosted on some of the fortifications during migration
- Some suggested using volunteer caretakers to assist with maintaining the Park
- Some suggested creating a handicapped accessible path to the beach

Concerns Regarding the Park and Park Management

- Some citizens expressed concern over algae levels in the swimming area and suggested that excess nutrients in the water might be to blame (i.e., a water quality concern)
- Some believed that the lower parking lot is too close to the shore, blocking the view and contributing to pollution
- A suggestion was made to consider making the large parking lot more attractive or easier to use (marking parking spaces, for example)
- Some expressed the opinion that the pier was in need of repair; some also indicated that past repairs gave the pier a patchwork appearance and suggested a more uniform overhaul of the decking and rails
- Some expressed concern over barbed wire along the fence line and suggested that it be removed

- There was some concern expressed over visitors coming in early and claiming picnic tables that they didn't intend to use until later in the day
- Use in the Park is increasing and with it come concerns (expressed by one citizen) over the impact of dogs on the Park and its wildlife
- Some expressed concerns over the impact of visitors on the nearby islands (e.g., fires, moving rocks, and potential impacts on nesting birds)
- Some citizens asked that the number of buses visiting the Park be limited
- Some asked if the fees being charged were high enough to cover Park maintenance and improvement costs
- Some asked if the Park had a separate budget and account (i.e., are Park revenues dedicated to the Park?)
- Some were concerned over the potential use of non-native plantings in the Park
- Some indicated a concern over declining wildlife in the marsh and noted that the existing water control structure resulted in a water level that is approximately 8 inches too low
- While some favored trails, other citizens were opposed to any new trails in currently undisturbed areas
- Some felt that there were too many picnic tables
- Regarding dogs, some felt that there were too many dogs during both the winter and summer, and that there was no enforcement of Park regulations of cleaning up after your dog
- Some suggested that higher fees should be charged for private wind-surfer trailers
- Some citizens were concerned over the lack of a police presence in the Park
- Some felt that the fees charged for residents to use the Pavilion were too high
- Some citizens suggested that the Park rules be made more clear to visitors